

12-000-0600 —

**Congress of the United States**  
**Washington, DC 20515**

January 9, 2012

The Honorable Lisa Jackson  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460

Dear Administrator Jackson,

The City of Valdosta, Georgia, is requesting that the Environmental Protection Agency (EPA) process the grant package submitted for the Savannah and Fry Street Elevated Storage Tank on October 5, 2011, and distribute the funds allocated for this project. This State and Tribal Grant (STAG) was included in the Interior report division of the Consolidated Appropriations Act of 2008 and subsequently placed on the Inclusion List by the EPA on July 23, 2009.

The City of Valdosta has been working on the design, land acquisition, and permitting for the Savannah and Fry Street Elevated Storage Tank project for the last two years based on the commitment of funding the city received from the EPA in July 2009. The City staff assigned to this project has spent well over 150 hours and the contract with the Engineering firm CDM, in the amount of \$397,679, is almost complete. It is our understanding that the project was advertised, bids were received, and the project awarded before City staff received notification from EPA that the Agency could not fulfill the funding requirement.

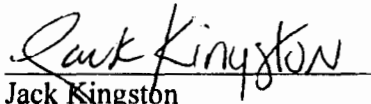
While a recession of funds was included in the fiscal year 2011 Continuing Resolution, it is our understanding that the projects targeted for rescission were determined based on a lack of progress resulting in unobligated funds. However, the Savannah and Fry Street Elevated Storage Tank had shown considerable progress and was near to completion when the rescission was completed. Without Report language guidance for the fiscal year 2011 bill, we are concerned with the lack of transparency as to which projects were targeted for rescission and why.

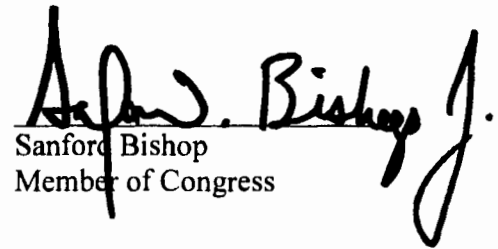
In addition, had the Elevated Storage Tank project been selected by the EPA to be included in the first round of projects to be funded, it is very possible that the project could have been complete before funding of this round of projects was rescinded. The Consolidated Appropriations Act of 2008 was signed into law on December 26, 2007; however, the EPA did not proceed with this project until July 23, 2009. This has left the City of Valdosta only two years of work for design, land acquisition, and permitting.

It is the City's request that the committed level of funding be provided and that the extraordinary effort of the City is taken into consideration as to not financially harm the residents of Valdosta. As the fiscal year 2011 Continuing Resolution only included a general STAG account rescission,

this project is still authorized and can be funded through available STAG funds. The City relied in good faith on the commitment of funding from EPA, has coordinately closely with the EPA, and has fully carried out requirements of the project. Thank you for your consideration of this request.

Sincerely,

  
Jack Kingston  
Member of Congress

  
Sanford Bishop  
Member of Congress

Enclosures:  
City of Valdosta timeline  
EPA project inclusion letter  
EPA funding letter of notification

City of Valdosta, Georgia – FY2008 STAG Grant, Elevated Storage Tank

- February 2008: Notification Letter from EPA Region 4 on SPAP project indicating that our project was on the list to be a part of the EPA's FY2008 Appropriations Act.
- June 2008: City of Valdosta submitted a letter to Maryann Gerber indicating our intent to apply for funding on the elevated storage tank.
- June 2009: The City of Valdosta starts new Fiscal Year Budget.
- July 2009: The City of Valdosta receives a Request for Inclusion from the EPA indicating that the project was to be funded with that round of projects.
- August 2009: The City reviews the hydraulic model of the proposed Elevated Storage Tank site and determines an alternative site would be better suited for the proposed tank.
- September 2009: The City of Valdosta requested a change in the physical location of the proposed elevated storage tank. Alternate sites are researched.
- January 2010-  
December 2011: Contract between the City and Engineering Design Consultant signed. Site review, geotechnical review, design drawings, construction specifications assembled, and project management started.
- March 2010: The City of Valdosta contacted Maryann Gerber regarding detailed information requested on the application for EPA. The contract/bidding information was required for the application to be processed.
- August –  
November 2010: Alternate Site property and required easement negotiations.
- July 2011: Purchase of site property and required easements after lengthy in depth negotiations.
- September 2011: Project advertised and bids received for the construction of the project.
- October 2011: Grant package submitted to EPA after all critical contract/bidding information was acquired.  
Project awarded to the lowest responsible bidder, CBI.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

February 4, 2008

Dear Grantee:

The U.S. Environmental Protection Agency (EPA) budget for fiscal year 2008 includes a budget for funding a list of "special needs" water-related projects. The EPA refers to these projects as "Special Appropriations Projects" (SPAPs). Funding for these projects is in the form of a grant from EPA that can be used to plan, design and construct wastewater, storm water and drinking water infrastructure projects.

I am pleased to inform you that you are the designated recipient of such funds through the EPA 2008 Appropriations Act. These funds may be used to finance up to 55 percent of the project's total cost, thereby requiring a local share of 45 percent, as denoted in the Appropriations language. EPA, Region 4 has been charged with the administration of your grant funds.

To guide you through the grant process, including the environmental review, Region 4 developed a number of informational tools specific for SPAP grants. These tools and general information regarding the SPAPs can be found on our web site at:  
[www.epa.gov/region4/water/gras/specialappropriations.html](http://www.epa.gov/region4/water/gras/specialappropriations.html).

In addition, I would like to invite to the 2008 SPAPs Annual Workshop for grantees which will be held at the Bay Pointe Marriot, 4200 Marriot Drive, Panama City Beach, Florida, April 1-3, 2008. The workshop is designed to assist you with the environmental review and grants process. To learn more about the workshop, register and make reservations with the hotel, please visit our website at the above web address. Please make your reservations before March 1, 2008 to receive the special room rate. There is no registration fee for the conference; however, you are responsible for all other costs associated with conference including the hotel, food, and travel.

If you have any questions, please feel free to contact me at (404) 562-9462, or by e-mail at [gerber.maryann@epa.gov](mailto:gerber.maryann@epa.gov). I look forward to seeing you at the workshop.

Sincerely,

A handwritten signature in dark ink, appearing to read "Maryann Gerber", is written over a faint, larger version of the same signature.

Maryann Gerber, Acting Chief  
Construction and Technical Assistance Section



5 AL	The Town of Eva for wastewater treatment facility upgrade project	\$300,000	\$288,000
6 AL	The Town of Somerville for wastewater construction project	\$384,000	\$387,000
7 AL	The City of Clanton for the Water Treatment Plant Upgrade Project	\$1,084,000	\$1,035,000
8 AL	Jackson County for wastewater and drinking water infrastructure project	\$132,000	\$128,000
9 AL	The City of Glencoe for Storm Drainage and Sewer Repairs	\$500,000	\$477,000
10 AL	The City of Muscle Shoals for Wastewater Infrastructure	\$500,000	\$477,000
46 FL	The City of Jacksonville for wastewater infrastructure improvement project	\$300,000	\$287,000
47 FL	The Emerald Coast Utility Authority for water system improvements	\$300,000	\$288,000
48 FL	St. Johns River Water Management District for Expansion of the Taylor Creek Reservoir	\$500,000	\$477,000
49 FL	The City of Brooksville, Southwest Florida Water Management District for Peace and Myakka River Watershed Restoration	\$500,000	\$477,000
50 FL	The City of Clearwater for Wastewater and Reclaimed Water Infrastructure	\$500,000	\$477,000
51 FL	The City of Lauderdale-by-the-Sea for North Beach Neighborhood Improvements, Phase II	\$500,000	\$477,000
52 FL	The City of Sarasota, Sarasota County for the Philippi Creek Septic System Replacement	\$500,000	\$477,000
53 FL	The City of Tallahassee for the Advanced Water Treatment Facility	\$500,000	\$477,000
54 FL	The City of Weston for Bonaventure Storm Water Pumps	\$500,000	\$477,000
55 FL	Town of Callahan for the Wastewater Treatment Plant	\$500,000	\$477,000
56 FL	Town of Jupiter for Water Treatment Plant Enhancement	\$500,000	\$477,000
57 FL	The Town of Pembroke Park for Sanitary Sewage System Rehabilitation	\$450,000	\$430,000
58 GA	The City of Atlanta for wastewater and stormwater rehabilitation project	\$300,000	\$288,000
59 GA	The Metro North Georgia Water Planning District for water and wastewater improvements project	\$300,000	\$288,000
60 GA	The City of Valdosta for the Valdosta Scott Water Tank Construction	\$500,000	\$477,000
61 GA	The City of Vienna for Sewer Treatment Facility	\$500,000	\$477,000
98 KY	The City of Ewing in Fleming County for wastewater construction project	\$300,000	\$288,000
99 KY	The Green River Valley Water District in Hart County for drinking water project	\$1,000,000	\$958,000
100 KY	The Monroe County Water District, Tompkinsville for drinking water and construction project	\$1,350,000	\$1,290,000
101 KY	The City of Harlan, Baxter-Rosspoint Sewer Line Expansion	\$500,000	\$477,000
102 KY	The City of La Grange, Oldham County Sewer District for the Ohio River Wastewater Treatment Plant in Goshen	\$500,000	\$477,000
103 KY	The City of Lexington, Lexington-Fayette Urban County Government for South Elkhorn Pump Station and Force Main Project	\$1,200,000	\$1,146,000
104 KY	The City of Louisville, Louisville and Jefferson County Municipal Sewer District for the Shively Area Pump Stations Eliminations Project	\$500,000	\$477,000
133 MS	The Town of Flora for drinking water and wastewater construction project	\$1,550,000	\$1,481,000
134 MS	The City of Oxford for wastewater construction project	\$342,000	\$327,000
135 MS	West Rankin Utility Authority for wastewater rehabilitation project	\$200,000	\$191,000
136 MS	The City of Ridgeland for wastewater and water quality protection project	\$200,000	\$191,000
137 MS	The Town of Boyle for water and sewer line extension project	\$100,000	\$98,000
138 MS	The City of Brookhaven for water and wastewater improvements project	\$300,000	\$287,000
139 MS	The City of Fulton for wastewater improvements project	\$100,000	\$98,000
140 MS	The City of Independence, Tate County School District for Water System Improvements	\$500,000	\$477,000
144 NC	Lower Cape Fear Water and Sewer Authority, Leland, for Water and Sewer Improvements	\$300,000	\$288,000
145 NC	The Neuse-Regional Water and Sewer Authority, Kinston, NC for water treatment system project	\$300,000	\$288,000

EPA Admin - \$23,000



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

SEP 8 0 40

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

The Honorable John J. Fretti  
Mayor  
City of Valdosta  
216 East Central Avenue  
Valdosta, Georgia 31603

Re: Valdosta Scott Water Tank Construction Project

Dear Mayor Fretti:

We regret to inform you that the U.S. Environmental Protection Agency will not be able to award the City of Valdosta \$477,000 for the Valdosta Scott water tank construction project provided in the Fiscal Year 2008 Consolidated Appropriations Act, Public Law 110-161, due to the Fiscal Year 2011 Appropriations Act (Public Law 112-10), passed by Congress on April 14, 2011, and effective on April 15, 2011. That law requires a rescission of \$140 million from EPA's State and Tribal Assistance Grant appropriation, and will, unfortunately, include your project. In the midst of this austere federal budget situation, the EPA is faced with difficult fiscal decisions.

While the EPA recognizes the importance to your local community of this project, please note that such funding may also be obtained through the Drinking Water State Revolving Fund (DWSRF), which remains the EPA's primary appropriation for financing water projects such as yours. These federal funds are managed by the Georgia Environmental Finance Authority and projects such as yours may qualify. Information on applying for DWSRF assistance is available by contacting Mr. Jason Bodwell at 404-584-1129 or Jason@gefafa.ga.gov.

If you have any questions you may contact your EPA Project Officers, Mr. James Adecock at 404-562-9248 or email at [adecock.james@epa.gov](mailto:adecock.james@epa.gov) or Mrs. Renca Hall at 404-562-8397 or email at [hall.renea@epa.gov](mailto:hall.renea@epa.gov).

Sincerely,

A. Stanley Meiburg  
Deputy Regional Administrator

cc. Larry Hanson  
John Whitehead  
Kathy Brunet



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB - 3 2012

The Honorable Jack Kingston  
U.S. House of Representatives  
Washington, D.C. 20515

OFFICE OF WATER

Dear Congressman Kingston:

Thank you for your letter dated January 9, 2012, to Lisa Jackson, Administrator of the U.S. Environmental Protection Agency (EPA), regarding the rescinded Special Appropriations Act Project (SAAP) grant for the City of Valdosta, Georgia.

Congress appropriated \$500,000 to the City of Valdosta in fiscal year (FY) 2008. An application and National Environmental Policy Act Review are required for the EPA to award SAAP funds. Our records show that Valdosta's application and NEPA documentation were not received until October 2011. Unfortunately, by that time the EPA had already finalized a rescission allocation plan to meet the \$140 million rescission from unobligated balances in the agency's State and Tribal Assistance Grants account, as required by Public Law 112-10. This budget category includes funds for SAAP grants, and the EPA proposed to meet the rescission with the oldest available SAAP funds. No special consideration was given based on application status or other progress; the intent was to take all unobligated SAAP funds from FY 2008 and prior. Because the FY 2008 funding for the City of Valdosta was unawarded, it was included in the rescission.

While the EPA recognizes the importance of this project to the community, please note that such funding may also be obtained through Georgia's Drinking Water State Revolving Fund (DWSRF). DWSRF projects in Georgia are administered by the Georgia Environmental Finance Authority. More information is available at <http://www.gefa.org> or by contacting Mr. Jason Bodwell at (404) 584-1129 or [jason@gefa.ga.gov](mailto:jason@gefa.ga.gov).

Again, thank you again for your letter. If you have any additional questions, please contact me or your staff may call Greg Spraul in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0255.

Sincerely,

A handwritten signature in black ink, which appears to read "Nancy K. Stoner", is written over a horizontal line.

Nancy K. Stoner  
Acting Assistant Administrator

cc: Jason Bodwell, GEFA

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
2368 Rayburn House Office Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX



**Congress of the United States**  
**House of Representatives**

March 15, 2013

Committee On Appropriations  
Ranking Member, Agriculture Subcommittee  
Defense Subcommittee

SAVANNAH OFFICE  
One Diamond Causeway, Suite 7  
Savannah, GA 31406  
(912) 352-0101  
(912) 352-0105 FAX

BAXLEY OFFICE  
P.O. Box 40  
Baxley, GA 31515  
(912) 367-7403  
(912) 367-7404 FAX

VALDOSTA OFFICE  
Federal Building, Room 218  
P.O. Box 5264  
Valdosta, GA 31603  
(229) 247-9188  
(229) 247-9189 FAX

Mr. Arvin Ganesan  
Associate Administrator for Congressional Affairs  
Environmental Protection Agency  
1200 Pennsylvania Ave, NW, Room 3426 ARN  
Washington, D.C. 20460

Dear Mr. Ganesan:

One of my constituents, Mr. *Gil. Le* has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by my constituent, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Mr. Bruce Bazemore. He can be reached at (912) 352-0101.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

Reply to: Bruce Bazemore  
Congressman Jack Kingston  
1 Diamond Causeway, Suite 7  
Savannah, GA 31406

13 March 2013

Dear Congressman Kingston

I wish to bring to your attention an oversight by a Federal agency in their rulemaking that is having major consequences to the United States. This is the Environmental Protection Agency's promulgation of their Tier 2 standards for the exhaust emission standards for the oxides of nitrogen in 1999.

First and foremost, the Sun and its interaction with the ionosphere are a big factor in creating the oxides of nitrogen in Earth's atmosphere and this was not included in EPA's rulemaking. Secondly, the fuel economies that were to be offered by Partnership for the Next Generation Vehicles (PNGV) – 70 to 80 mpg – would go a long way towards reducing the carbon dioxide level in the atmosphere and giving a longer life to our fossil fuel reserves. The PNGV prototypes were all diesel-electric hybrids. The Earth is covered with trees and other vegetation in the regions in which there is adequate water. The plant life requires chemically available nitrogen for growth. The process for making the nitrogen in a chemically form available to the plants is called nitrogen fixation; it is estimated by Postgate in his book on nitrogen fixation that 10 trillion metric tonnes of fixed nitrogen are formed on Earth each year. The lower portion of the ionosphere (the D, E, and F layers) is a major source of this chemically available nitrogen. Hargreaves in his Figure 4.8 (attached) presents the available data derived from experimental measurements. The ionosphere is the upper portion of the atmosphere where ionic activity caused by the Sun is strong; the ionosphere is the outer atmosphere of the earth. The radiation from the Sun creates many chemically active species from the molecules oxygen and nitrogen. The many oxides of nitrogen can be transported into the troposphere by mechanisms such as turbulence, diffusion, convection, and vertical air currents, where oxides can be further oxidized to nitrogen dioxide which then goes into solution in the water vapor in the troposphere. The aqueous solution of nitrogen dioxide in the troposphere is transported to the ground by mechanisms including rain and condensation.

The Federal regulations have focused on the oxides of nitrogen in the troposphere as created by humans as a major rationale for very restrictive exhaust emission rules on motor vehicles, to the

2

detriment of automotive fuel economy and to a major degree, caused the cancellation of the Federal program PNGV, the 80 mile per gallon full sized car program that started in 1993 and was cancelled in 2001. The Tier 2 ruling issued in 1999 appear to have been a major factor in the cancellation of the program. See Trinkle's analysis in his Ph. D, thesis. The Tier 2 ruling is discussed in EPA420-R-99-023, December 1999, "Regulatory Impact Analysis – Control of Air Pollution from New Motor Vehicles: Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements". This reference estimates that about 3 million summer tons of the oxides of nitrogen are emitted every year in the 47 states of the United States if Tier 2 were not enacted. This is many orders of magnitude less than Postgate's estimate of the level of the nitrogen fixed every year.

Recommendation: We should return to the exhaust emissions standards for the oxides of nitrogen that existed prior to the enactment of Tier 2.

My email address is

Exp 4

my telephone number is

Exp 4

Exp 4

J. Postgate, *Nitrogen Fixation, Third Edition* (Cambridge University Press, Cambridge, 1998)

J. K. Hargreaves, *The solar-terrestrial environment* (Cambridge University Press, Cambridge, 1992)

*Review of the Research Program of the Partnership for an New Generation of Vehicles , Seventh Report*, (National Academy of Sciences, Washington, D. C. 2001)

David S. Trinkle "A Vehicle for Change, PNGV, An Experiment in Government-Industry Cooperation" Dissertation, Pardee RAND Graduate School (December 2009)

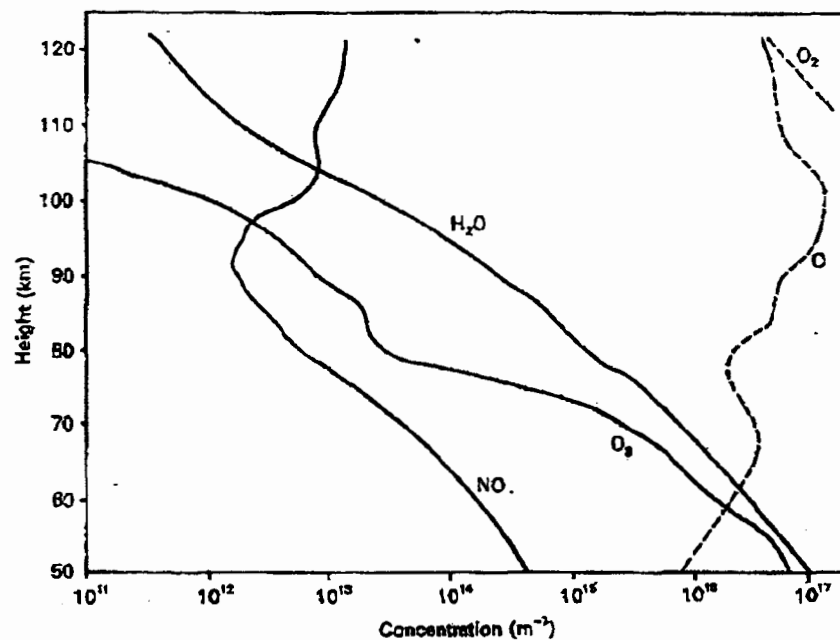


Fig. 4.8 Calculated distributions of important minor constituents for noon at  $45^\circ\text{N}$  latitude.  $\text{O}_3$  and  $\text{O}$  are shown for comparison. (After *Handbook of Geophysics and the Space Environment*, APGL, 1985; from T. J. Keneshea *et al.*, *Planetary and Space Science* 27, 385, 1979)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

**JUN 14 2013**

OFFICE OF  
AIR AND RADIATION

The Honorable Jack Kingston  
Member, U.S. House of Representatives  
1 Diamond Causeway, Suite 7  
Savannah, Georgia 31406

Dear Congressman Kingston:

Thank you for your March 15, 2013, letter on behalf of your constituent, Mr. \_\_\_\_\_, regarding the U.S. Environmental Protection Agency's light-duty vehicle Tier 2 standards for oxides of nitrogen (NO<sub>x</sub>) emissions.

NO<sub>x</sub> is a key ingredient in the formation of ambient ozone, which has significant adverse public health impacts. As required by the Clean Air Act, the EPA has established a national ambient air quality standard (NAAQS) for ozone to protect the public from those adverse impacts. Ground-level ozone pollution is typically formed through reactions involving NO<sub>x</sub> and volatile organic compounds (VOCs) in the lower atmosphere in the presence of heat and sunlight. Breathing air containing high levels of ozone can reduce lung function and increase respiratory symptoms, aggravating asthma or other respiratory conditions. Ozone exposure also has been associated with increased susceptibility to respiratory infections, medication use by asthmatics, doctor visits, and emergency department visits and hospital admissions for individuals with respiratory disease. Ozone exposure may also contribute to premature death, especially in people with heart and lung disease.

The EPA has established emission standards to control NO<sub>x</sub> and VOC pollution from light-duty vehicles and other types of mobile sources as an essential part of meeting the ozone NAAQS and improving air quality. Although air quality has steadily improved over the years due to emissions controls, many areas of the country still do not attain or have difficulty maintaining compliance with the ozone NAAQS, necessitating further controls on NO<sub>x</sub> and VOC sources.

Your constituent's letter also raises concerns regarding the Partnership for a New Generation of Vehicles (PNGV) program and the ability for manufacturers to improve fuel economy through the use of diesel engines. The Tier 2 standards were designed to be fuel-neutral and did not prevent diesel-powered vehicles from entering the U.S. vehicle market. Diesel-powered vehicles meeting Tier 2 standards are currently available, with several additional diesel-powered vehicles recently announced by manufacturers. For example, General Motors is introducing a diesel-powered version of the Chevrolet



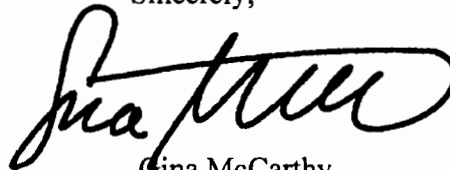
Cruze for model year 2014. In addition, the Partnership for a New Generation of Vehicles (PNGV) has continued evolving over time. The program initially transformed into the FreedomCAR and Fuel Partnership program, under the Department of Energy's Office of Energy Efficiency and Renewable Energy. The government-industry partnership is now called U.S. DRIVE, which stands for Driving Research and Innovation for Vehicle Efficiency and Energy Sustainability. The program continues to focus on developing advanced technologies for light-duty vehicles. Further information is available on the U.S. DRIVE web site:

<https://www1.eere.energy.gov/vehiclesandfuels/about/partnerships/usdrive.html>.

The EPA also works closely with the Department of Transportation's National Highway Traffic and Safety Administration to establish a national program to reduce greenhouse gases (GHGs) and improve fuel economy of motor vehicles. These historic efforts have resulted in the first ever GHG standards for passenger vehicles and new corporate average fuel economy standards for model years 2012-2025 vehicles. The new standards represent the largest action the federal government has ever taken to improve fuel economy. The standards will effectively double average vehicle fuel economy, saving families more than \$1.7 trillion in fuel costs. The national program has received broad support from automakers, environmental groups and state organizations. Further information on the EPA's GHG standards is available at: <http://www.epa.gov/otaq/climate/regs-light-duty.htm>.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Cheryl Mackay in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2023.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy", written in a cursive style.

Gina McCarthy  
Assistant Administrator

**JACK KINGSTON**  
1st District, Georgia

**WASHINGTON OFFICE**  
2242 Rayburn House Office Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

**BRUNSWICK OFFICE**  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX



**Congress of the United States**  
**House of Representatives**

March 16, 2006

06-000-5592

**Committee On Appropriations**  
**Vice Chair, Republican Conference**

**SAVANNAH OFFICE**  
One Diamond Causeway  
Suite 7  
Savannah, GA 31406  
(912) 352-0101  
(912) 352-0105 FAX

**BAXLEY OFFICE**  
P.O. Box 40  
Baxley, GA 31515  
(912) 367-7403  
(912) 367-7404 FAX

**WARNER ROBINS OFFICE**  
P.O. Box 9348  
Warner Robins, GA 31095

Honorable Stephen L. Johnson  
Administrator, Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

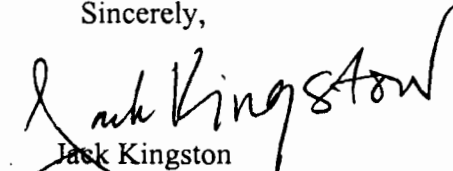
Dear Administrator Johnson:

I am writing to bring to your personal attention a request from the Association County Commissioners of Georgia (ACCG). They would like for you to be the keynote speaker for their annual conference in Savannah, Georgia, April 22 - 25, specifically the evening of Sunday, April 22, 2006.

ACCG was formed in 1914 with 19 charter county members, and today serves as the consensus-building, training, and legislative organization for all 159 county governments in the state. I have had a long-standing relationship with ACCG and enjoy working with them. From my understanding one of the key issues that will be discussed at their conference is the importance of public partnerships in preserving land, water, and air resources in order to maintain quality of life and economic viability in Georgia. If your schedule will permit you to attend their conference I think you could really give them some insight and guidance on the policies of your agency.

Thank you for your consideration of this request and please feel free to contact my Legislative Director, Merritt Myers at 202-225-5831.

Sincerely,

  
Jack Kingston  
Member of Congress

Copy of letter  
ACCG sent

September 22, 2005

Honorable Stephen L. Johnson, Administrator  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator Johnson:

Permit me to begin by telling you how much I enjoyed the White House Conference on Cooperative Conservation and in particular the lunch with you and your top staff. Your speech to the Conference was also on point in that you talked about economic growth and environmental protection not being mutually exclusive.

Also through my membership on your Local Government Advisory Committee, I have learned that your agency's leadership has developed many policy positions that will lead the nation to an economically sound future in which we also have a healthy environment.

Our Association represents all of the counties in Georgia and each year we gather for our annual meeting and focus on issues of interest and importance to elected county government officials. Next year our meeting will be in Savannah, Chatham County, Georgia on April 22-25. I would like for you to keynote our conference on Sunday evening, April 22.

Since resources available to government are more and more limited, we intend to continue focusing on the importance of public partnerships in our efforts to preserve our land, water and air resources and to maintain our quality of life and economic viability. I can't think of a better person to set the stage for our meeting than you. The policies of EPA, perhaps more than any other agency, set the tone for the direction of the nation, and I believe you are going exactly the right direction.

With highest personal regards, I remain

Sincerely,

Jerry R. Griffin  
Executive Director

08-001-3181

**Congress of the United States**  
**Washington, DC 20515**

September 26, 2008

The Honorable Stephen L. Johnson, Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator Johnson:

We are writing in response to concerns from growers in our States about EPA's July 10, 2008 Reregistration Eligibility Decisions (REDs) for the soil fumigants and about the RED for chloropicrin in particular. Chloropicrin is an essential tool to control soil pests that attack the roots and stems of many crops such as strawberries, potatoes, peppers, tomatoes, melons, fruit trees, almonds, tobacco, cut flowers, grapes, raspberries, forest nursery, plant nursery and orchard replants. It also is a critical component of the methyl bromide replacement strategies for several crops. We are concerned that the buffer zones for certain crop uses and the monitoring and notification requirements in the chloropicrin RED would make it impossible for many growers to use this important tool. The required buffer zones and other limitations that the RED places on chloropicrin will have severe repercussions for agriculture in our States, including the production of fruits and vegetables for American families and seedlings for reforestation.

The RED's benefit discussion severely underestimates economic impacts of the new requirements. For example, reforestation programs rely on the southern, northeastern and northwestern forest nurseries for the healthy management of our nation's timberland. These programs ensure that there will be timber for harvesting in the future and maintain sustainable forests that help reduce greenhouse gasses. Yet, EPA's regulation would drastically limit the acreage planted, reduce yields and increase costs. In public meetings last year foresters indicated that these types of buffer zones will impact their ability to meet state reforestation requirements. The inability to regenerate the forest due to lack of seedlings may well influence some landowners to turn to other uses for their land, resulting in a loss of forested landscape. The effects are equally as dire for certain vegetable crops.

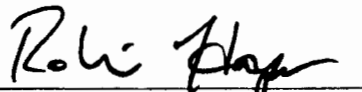
The devastating effects of excessively large buffer zones were documented by numerous growers during the Public Participation Process. Despite these comments, the EPA proposal creates very large buffer zones for many shank applications of chloropicrin. Even if a grower employed all possible practices that qualify for buffer reduction credits, some of these buffers would still be prohibitively large since the mitigation measures cannot result in a reduction of more than 50 percent. Most of these buffer reduction credits are related to certain types of barrier film (tarps) which cannot be used in many circumstances.

Chloropicrin has a long history of use with a very low incident rate (less than 0.1 %). In the rare cases that exposure did occur, it resulted in transient, reversible eye irritation. Growers and registrants worked with EPA to develop a series of application practices designed to further reduce emissions and potential impacts to bystanders and workers. While EPA is to be commended for including these practices in the RED, EPA failed to recognize the benefits of these practices when establishing buffer zones. EPA's current RED places a burden on growers and foresters that is significantly disproportionate to the risk.

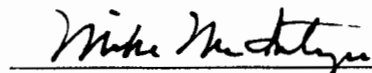
Similarly, the monitoring and notification requirements proposed in the RED would greatly increase costs for growers without providing significant benefits to communities. The proposed system requires either hourly instrument monitoring for 48 hours following the fumigation or an alternative notification procedure. We have heard from growers that the hourly monitoring requirement could increase the cost of fumigation significantly. In addition to the equipment costs, it would require employing round the clock workers to conduct the monitoring. Again, given chloropicrin's low incident rate, the increased burden does not provide a significant benefit to communities. The proposed notification process is not a viable alternative and would only lead to confusion and litigation.

The need of our nation's consumers for domestically produced fruits and vegetables, the importance of forest seedling production in greenhouse gas sequestration, and the protection of our farm and woodland soils from invasive or destructive species are important components of any reregistration decision. We encourage EPA to amend the RED to include a more reasonable approach to monitoring and notification requirements and to buffer zones. Thank you very much for your attention to this important issue for American agriculture and American consumers.

Sincerely,



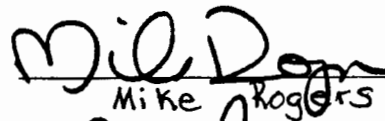
Robin Hayes  
Member of Congress



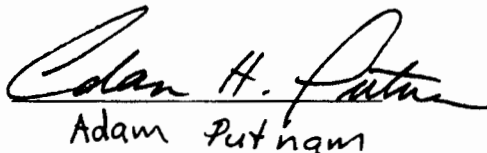
Mike McIntyre  
Member of Congress



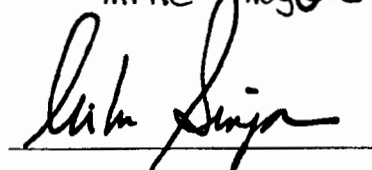
David Scott



Mike Rogers



Adam Putnam



Allen Boyd  
Allen Boyd

G.K. Butterfield  
G.K. Butterfield

Jack Kingston  
Jack Kingston

Sanford D. Bishop  
Sanford D. Bishop

Q. C. King  
Q. C. King

Wally Hergen  
Wally Hergen

Daniel E. Lungren  
Daniel Lungren

Elizabeth Dole  
Elizabeth Dole

Jim Cox  
Jim Cox

Devin Nunes  
Devin Nunes

Terry Everett  
Terry Everett

Walter B. Jones  
Walter B. Jones

Howard Cable  
Howard Cable

Virginia Foxx  
Virginia Foxx

Rick Larsen  
Rick Larsen

Brian Baird  
Brian Baird

Doc Hastings  
Doc Hastings

Leslie G. Johnson  
Leslie G. Johnson

John Barrow  
John Barrow

Cathy The Hon Rodger  
Cathy

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### Chloropicrin Signatures

<b>Page 1, Column 1</b>	<b>Page 1, Column 2</b>
Robin Hayes	Mike McIntyre
David Scott	Mike Rogers
Adam Putnam	Mike Simpson
<b>Page 2, Column 1</b>	<b>Page 2, Column 2</b>
Allen Boyd	Devin Nunes
G.K. Butterfield	Terry Everett
Jack Kingston	Walter B. Jones
Sanford Bishop	Howard Coble
Dennis Cardoza	Virginia Foxx
Kevin McCarthy	Rick Larsen
Wally Herger	Brian Baird
Daniel Lungren	Doc Hastings
Elizabeth Dole	George Radanovich
Jim Costa	John Barrow
Cathy McMorris Rogers	





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

NOV 20 2008

The Honorable Jack Kingston  
House of Representatives  
Washington, D.C. 20515

OFFICE OF  
PREVENTION, PESTICIDES AND  
TOXIC SUBSTANCES

Dear Congressman Kingston:

Thank you for your letter of September 26, 2008, to Stephen L. Johnson, Administrator of the U.S. Environmental Protection Agency (EPA), expressing your concern about the Agency's recent regulatory decisions for the soil fumigant pesticides, especially chloropicrin. Growers in your state have noted that chloropicrin is an important replacement for methyl bromide, as well as an essential tool in controlling soil pests of many agricultural crops and forest nursery, plant nursery, and orchard replants. You are concerned about risk mitigation measures for chloropicrin, especially buffer zones and monitoring and notification requirements. Administrator Johnson asked me to respond on behalf of EPA because my office is responsible for regulating pesticides.

In July 2008, EPA announced its risk management decisions including a suite of new safety measures for the soil fumigants chloropicrin, dazomet, metam sodium/potassium, and methyl bromide. Completion of these decisions was consistent with the statutory requirement for the Agency to reevaluate by October 3, 2008, all pesticides first registered before November 1984. The risk mitigation measures for these pesticides, including the measures cited by your constituents, are designed to work together to protect workers and bystanders from inadvertent exposure and adverse health effects that may result from the use of these chemicals. The soil fumigant Reregistration Eligibility Decisions (REDs), explanations of the risk mitigation measures, and related information are available on the Agency's Web page at [http://www.epa.gov/pesticides/reregistration/soil\\_fumigants/](http://www.epa.gov/pesticides/reregistration/soil_fumigants/).

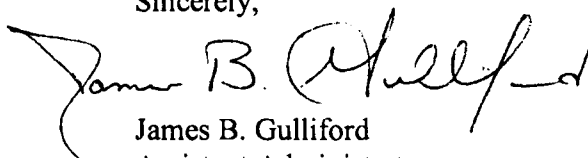
EPA developed the soil fumigant REDs over the past four years using an extensive public participation process that included numerous opportunities for public comment and consultation. During these comment periods, stakeholders and the public have been invited to provide input on human health and ecological risk assessments and proposed risk mitigation measures. To obtain fuller, more detailed and meaningful input, the Agency also hosted public meetings around the country and consulted with stakeholders representing a broad spectrum of interests including fumigant registrants, states and tribes, other federal agencies including the U.S. Department of Agriculture, researchers, growers, farm workers, and citizens. We appreciate the diverse input from these individuals and groups, which helped inform the risk mitigation measures included in the fumigant REDs.

At present, EPA is encouraging stakeholders who are interested in and affected by these decisions to carefully review the fumigant mitigation measures and provide additional specific input. A public comment period on implementation of risk mitigation measures in the soil fumigant REDs opened on July 16, 2008, and was extended through October 30, 2008. After considering all new information received, the Agency will refine plans for implementation of the soil fumigant risk mitigation measures as needed.

Agency staff members are meeting with stakeholders in several key areas of the country, including the Southeastern U.S., to obtain feedback and constructive suggestions. We understand some issues associated with the risk mitigation measures, such as those identified by your constituents, may need to be further addressed. We are looking at a range of implementation options, focusing on aspects of the decisions that present the most significant challenges. Through this ongoing process of obtaining constructive analysis and input, EPA believes the new safety measures for these important pest control tools can be successfully and practically implemented by users and growers.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may contact Ms. Christina Moody in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely,

A handwritten signature in dark ink, appearing to read "James B. Gulliford". The signature is fluid and cursive, with a large initial "J" and a stylized "G".

James B. Gulliford  
Assistant Administrator

10-001-2857

**Congress of the United States**  
**Washington, DC 20515**

July 27, 2010

Lisa Jackson, Administrator  
United States Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Ave. NW  
Washington, DC 20460

Re: Regulation of Coal Combustion Products

Dear Administrator Jackson,

This letter is presented in response to the Environmental Protection Agency's (EPA's) Proposed Rule regarding the first ever regulation of Coal Combustion Residuals (CCRs) under the Resource Conservation and Recovery Act (RCRA). Although EPA states that they are not reconsidering the "Beneficial Use" treatment of CCRs under this proposal, we feel that regulating CCRs under Subtitle D of RCRA is a far superior approach to insure the continued beneficial uses of this material. This designation would leave the Bevill determination in place and issue national minimum criteria. EPA would also establish additional safety requirements to address the structural integrity of surface storage of CCRs to prevent releases.

One such use expressly stated for the product is as an ingredient in concrete where the incorporation of CCRs has proven over decades of use to increase strength, improve longevity, enhance durability and provide improved cost effectiveness. Like its utilization in concrete, the use of CCRs in carpeting has proven to be a viable, safe, and environmentally preferable alternative to disposal.

Over the past 20 years detailed study by EPA concluded that the regulation of CCRs under Subtitle C is not warranted. Further, EPA's C2P2 initiative encourages the beneficial utilization of CCRs whenever possible. In just such an endeavor and with the full support of EPA, the nation's carpet and rug industry has been committed to incorporate CCRs into its product mix, and significant strides have been made to accomplish this objective. As a result, CCRs destined for a land fill have been recovered and processed to provide the carpet manufacturer with a functional ingredient (replacing a mined and processed material) that provides positive properties to the finished carpet product.

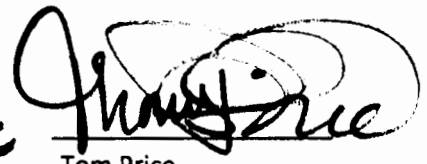
It is our concern that any treatment of Subtitle C to CCRs will affect efforts to beneficially utilize this abundant material as well as the position utilities may potentially take concerning distribution and/or sales of the material. Should EPA ignore the science of the issue and conclude; however, that Subtitle C is appropriate, beneficial uses—including those listed above—must be clearly spelled out and made exempt from the hazardous designation.

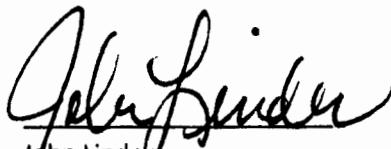
In conclusion, we encourage EPA to follow the option proposed that would regulate CCRs under Subtitle D of RCRA to insure the continued beneficial use of that material in the carpet and other industries. Thank you for your consideration of these concerns. we will be available should you desire additional information or input.

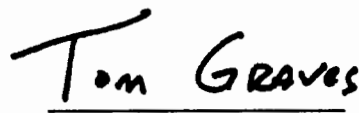
Sincerely,

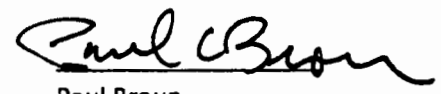
  
Jack Kingston  
Member of Congress

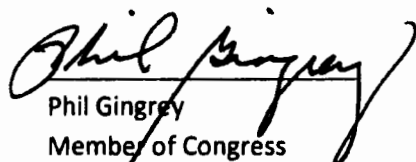
  
Lynn Westmoreland  
Member of Congress

  
Tom Price  
Member of Congress

  
John Linder  
Member of Congress

  
Tom Graves  
Member of Congress

  
Paul Broun  
Member of Congress

  
Phil Gingrey  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 26 2010

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

The Honorable Jack Kingston  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Kingston:

Thank you for your letter of July 27, 2010, to U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson, regarding EPA's proposed rulemaking governing the management of coal combustion residuals (CCRs). I appreciate your interest in the beneficial use of CCRs, and the proposed rule.

In the proposed rule, EPA seeks public comment on two approaches available under the Resource Conservation and Recovery Act (RCRA). One option is drawn from remedies available under Subtitle C, which creates a comprehensive program of federally enforceable requirements for waste management and disposal. The other option includes remedies under Subtitle D, which gives EPA authority to set performance standards for waste management facilities which are narrower in scope and would be enforced primarily by those states who adopt their own coal ash management programs and by private citizen suits.

EPA is not proposing to regulate the beneficial use of CCRs. EPA continues to strongly support the safe and protective beneficial use of CCRs, including their use in concrete. However, EPA has identified concerns with some uses of CCRs in an unencapsulated form, in the event proper practices are not employed. The Agency is soliciting comment and information on these types of uses.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Raquel Snyder, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-9586.

Sincerely,

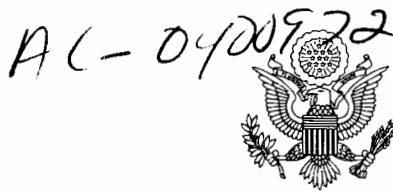
A handwritten signature in black ink that reads "Mathy Stanislaus". The signature is written in a cursive, flowing style.

Mathy Stanislaus  
Assistant Administrator

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
2242 Rayburn House Office Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX



**Congress of the United States**  
**House of Representatives**

July 2, 2004

**Committee On Appropriations**  
**Vice Chair, Republican Conference**


SAVANNAH OFFICE  
One Diamond Causeway  
Suite 7  
Savannah, GA 31406  
(912) 352-0101  
(912) 352-0105 FAX

BAXLEY OFFICE  
P.O. Box 40  
Baxley, GA 31515  
(912) 367-7403  
(912) 367-7404 FAX

WARNER ROBINS OFFICE  
P.O. Box 9348  
Warner Robins, GA 31095

Mr. Edward D. Krenik  
Associate Administrator for Congressional Affairs  
Environmental Protection Agency  
1200 Pennsylvania Ave, NW, Room 3428 ARN  
Washington, D.C. 20460

Dear Mr. Krenik:

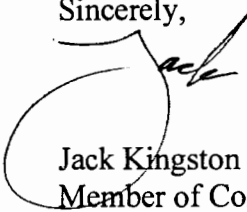
One of my constituents, Mr. , has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by my constituent, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Bruce Bazemore. He can be reached at (912) 352-0101.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

  
Jack Kingston  
Member of Congress

**Reply to: Bruce Bazemore**  
**Congressman Jack Kingston**  
**1 Diamond Causeway, Suite 7**  
**Savannah, GA 31406**

Congressman Kingston:  
Please look into this  
EPA/MB-11

June 29, 2004

The Honorable Mike Leavitt  
Administrator  
United States Environmental Protection Agency  
Washington, D.C.

Dear Mr. Leavitt:

Your Agency has a major opportunity available to save energy and reduce air pollution. This would result from your Agency endorsing vehicles that operate on low volatility hydrocarbon fuels. The clean diesel passenger cars, light trucks, and sport utilities are examples of such vehicles. National policy should discourage the use of benzene and other volatile aromatic hydrocarbons in fuels and encourage the use in lean burn engines of the much less volatile heavy fuels. EPA should make possible, not obstruct, our use of the advanced passenger car and sport utility diesel engine technology that is available now in Europe; the Agency should encourage research in lean burn heavy fuel engines. Business Week, pp. 31-32, May 31, 2004, mentions roadblocks created by your Agency to their use in the United States.

Our rules on the oxides of nitrogen should be the same or similar to those of Europe. Recent scientific data on the oxides of nitrogen in the atmosphere support this thrust. R. J. Charlson, J. H. Seinfeld, A. Nenes, M. Kulmala, A. Laaksonen, and M. C. Facchini in their paper in Science, Vol. 292, pp. 2025- 2026 (15 June 2001) describes the processes in which nitrogen dioxide goes in solution in the water vapor in the air. T. P. Marcy et al, Science, Vol. 304, pp. 261-265, (9 April 2004) quantifies how compounds such as ozone in the stratosphere are transported into the troposphere. J. Gary Smyth of General Motors in his paper at the California Air Pollution Control Officer's Association (CAPCOA) meeting on 28 January 2004 estimates that the new Tier 2 rules on the oxides of nitrogen are six times more restrictive than those of Europe. The Federal exhaust emission rules on light duty diesel engines, the Tier II regulations, for the oxides of nitrogen coming in force in 2004, 2007, and 2010, are difficult for any current diesel engine technology, and much more restrictive than those of Europe. The need for such extreme control of the oxides of nitrogen in the atmosphere is questionable in view of recent scientific papers.

The use of European advanced diesel engine technology in our passenger cars and light trucks would go far in our conservation of oil; estimates of fuel saving by the use of current European advanced diesel technology ranges from 30 to 60% or more. Our current oil consumption has impacts on national security, our balance of trade, and the future well being of our people in such ways as global warming. Our oil import adverse impact on our balance of payments, using current imports of 10 million barrels/day at a price of \$40/barrel is \$400 million/ day.

The reduction of air pollution that arises from unleaded gasoline is important. As you may know, the process for making the high octane components, catalytic reforming of the aliphatic components of petroleum to the highly volatile aromatic hydrocarbons, benzene, toluene and xylene, was invented about 1939 and became the lead process for processing petroleum to make unleaded gasoline. These compounds are highly toxic to the human body. Benzene is an immunosuppressant as well as a carcinogen. There are many discussions of the role of benzene in lung cancer. Richard B. Hayes et al., *Environmental Health Perspectives* 104, Supplement 6, December 1996, "Benzene Toxicity, Carcinogenesis, and Epidemiology," mentions explicitly the connection between benzene and lung cancer. The National Institute of Health in their website at the National Library of Medicine: [www.nlm.nih.gov/medlineplus/ency/article/001289.htm](http://www.nlm.nih.gov/medlineplus/ency/article/001289.htm) discusses this connection. Thus, these papers indicate a strong correlation of lung cancer in U. S. women with the introduction of highly volatile aromatic hydrocarbons, benzene, toluene, and xylene, in gasoline. The paper, "Lung Cancer in US Women, A Contemporary Epidemic," by Jyoti D. Patel, M. D., Peter B. Bach, M. D., and Mark G. Kris, M. D., was recently published in the *Journal of the American Medical Association*, Volume 291, No. 14. (April 14, 2004), pages 1763-1768. The paper is available from the lead author, [jd-patel@northwestern.edu](mailto:jd-patel@northwestern.edu). The figure in the paper shows age-adjusted death rates for lung cancer and breast cancer among women, United States, 1930-1997; the rate for lung cancer goes from about 3 per 100,000 women in 1930 to 5 per 100,000 women in 1960, and then rising to 35 per 100,000 in 1997, a sevenfold increase. More recent data released by the National Center for Health Statistics indicates the death rate has increased to 40.2 per 100,000 U. S. women, an eightfold increase since 1960.

A recent paper in by Zhang et al., "Atmospheric New Particle Formation Enhanced by Organic Acids," published in *Science* Vol. 304, pp.1487-1490 (14 June 2004) identifies the role the organic acids derived from the volatile aromatic hydrocarbons benzene, toluene, and xylene play in particulate formation in reacting with the sulfur in the air. A co-author of this paper is Mario Molina, a Nobel prize winner in atmospheric sciences.

I would appreciate your attention to this matter. My phone number is  
my email is

Sincerely



## COMMENTARY

BY DAVID WELCH

# Diesel Deserves A Second Chance

It costs less and blows by gas on mileage but faces serious roadblocks in the U.S.

**T**HE FUEL GAUGE in a diesel-powered Mercedes E320 resembles a digital thermometer. When the tank is full, a black bar rises to the top of the strip. Right now, my fuel gauge is at the bottom, as though it were five degrees outside. That's appropriate, because as I pull out of the third filling station that sells only gasoline, the gauge seems to be telling me the

search for diesel has grown cold. When I finally find some, there are lines for the two pumps, one of which fits only tractor trailers.

This is one big reason the E320 diesel may be the coolest car you'll never drive. What a shame. This is a great ride. It doesn't have the soot-laden exhaust and loud clattering that turned millions of Americans off diesel-powered cars in the 1980s. Its acceleration and torque beat a gasoline-fueled E320, with fuel economy of 32 miles per gallon instead of 22. I drove for six days and about 500 miles before needing more fuel—which was 10¢ a gallon cheaper than regular gasoline.

Diesel could be a great way for America to balance its burning desire for fast cars and big trucks with its urgent need to cut consumption of imported oil. If the federal government doesn't explore diesel's potential for better fuel economy, it won't take off as it has in Europe, where nearly half of all cars burn it.

Diesel is challenged on several fronts. Environmentalists and some U.S. lawmakers worry that the emissions cause lung can-

cer and other ailments. Washington favors hydrogen cars and gasoline-electric hybrids. As a result, oil companies aren't installing more diesel fuel pumps, and carmakers aren't developing more engines for the U.S. market. "For the majority of the public, diesel isn't even on the radar," says James N. Hall, vice-president of AutoPacific Inc.

Indeed, only the European auto makers are keeping diesel cars on the roads in the U.S. They sell them in Europe, where gasoline costs double the \$2 a gallon that Americans pay. Here, Mercedes started selling the E320 in April after a five-year absence from the market, and expects to

**POWER** The diesel E320 gets 32 mpg, vs. 22 mpg for the gas model



sell 3,000 in 2004. Volkswagen has a fast diesel engine in the Golf, Jetta, Beetle, Passat, and the Tuareg SUV—totaling about 30,000 units a year. Daimler-Chrysler will sell a diesel-powered Jeep Liberty SUV, and BMW is considering exporting its diesel 740 sedan.

Emissions are the knottiest barrier to acceptance. Diesel engines inject petroleum-based diesel fuel into a chamber that is already filled with air compressed at higher pressure than in a gasoline engine. This generates more heat—enough to ignite the fuel without spark plugs—

and provides a powerful kick. Diesel engines are more efficient than gas engines, but they release more particles that have been implicated in a variety of lung diseases, including cancer. They also emit nitrogen oxides, or NOx, a key component of smog.

Europeans make a good case that technology and legislation can clean diesel up. The new diesel engines arriving from Europe have particulate traps that filter out most of the dangerous particles. Those cleaning devices, however, don't work in the U.S. because of the high sulfur content in the fuel—500 parts per million, compared with 15 ppm in Europe. Yet by 2006, laws aimed at drastically reducing emissions from millions of diesel trucks

## What's Keeping Diesel in the Slow Lane

### CHICKEN AND EGG

Many filling stations in the U.S. do not sell diesel fuel. Big Oil won't retrofit more tanks and pumps until they see more demand for the fuel. But consumers won't buy the diesel-powered cars until they see more pumps.

### HEALTH QUALMS

Though not conclusive, studies suggest diesel exhaust may cause lung cancer, asthma, and other pulmonary problems. That scares lawmakers, who want diesel fuel and its exhaust cleaned up before the fuel becomes a mainstay.

### HOPES FOR HYBRIDS

California, which promotes gas-electric hybrids as a solution for clean-air and fuel conservation, has heavy restrictions on diesel. Many in Congress, likewise, would rather promote hybrids than convert America to a diesel nation.

### IMAGE IS ALL

U.S. auto makers tried to solve fuel economy issues in the '80s with diesel cars that were slow, unreliable, noisy, and polluting. Many Americans remember those bad old days. Changing the image will take a huge marketing effort.

and buses on U.S. roads will bring America's standards for sulfur content in line with Europe's. And for cars, German parts maker Bosch will sell a particulate trap that filters up to 98% of the carcinogenic particles from low-sulfur fuel exhaust.

Will that be enough? It depends on whom you ask. A 2003 study by the Boston-based Health Effects Institute concluded that exposure to diesel exhaust poses a small cancer risk. But even at low levels, the exhaust may cause asthma and other respiratory diseases, according to Dr. Tomas Sundstrom, a Swedish respiratory expert who worked on the study.

## More Fun

EUROPEAN CARMAKERS are sanguine. Mercedes and Volkswagen say that with low-sulfur diesel fuel, they will be able to meet California's 2007 clean-air regulations—which means that diesel fumes would be no dirtier than gasoline exhaust. At such levels, the risk of cancer for people exposed to the fumes should be very low, says the California Air Resources Board, even if one assumes a significant increase in diesel traffic. And as the Environmental Protection Agency tightens standards on diesel, it will force cars sold here to be cleaner than in Europe, says Margo T. Oge, director of the EPA's Office of Transportation & Air Quality.

NOx regulations are another hurdle. Special catalytic converters can lower NOx emissions from diesel and can be combined with particulate traps for a premium of \$3,000 over a gas-burning car. Still, U.S. auto makers balk. Running the numbers, Ford Motor Co. scrapped plans for its diesel Focus compact. "At that cost, you may as well make a hybrid," says Lawrence D. Burns, General Motors Corp.'s vice-president of R&D.

Burns is right, but diesel has another advantage. Hybrids such as Toyota Motor Corp.'s Prius can get a 40% improvement in fuel economy, like some diesels. But they're not as fun to drive as a diesel Passat or Mercedes E320. Mercedes wants to make performance a selling point and is trumpeting the car's massive torque, better fuel economy, quiet ride, and reduced trips to the gas station in its marketing efforts.

For now, hybrids have a momentum that diesel can't duplicate. But if German auto companies can bring diesel emissions into line with those from a gasoline engine, diesel would finally get a fair shot in the market. After all, the new generation of diesel engines runs clean enough for Europeans and fast enough for Americans. ■

—With Gail Edmondson in Frankfurt

## BRANDS

# Toyota's Youth Models Are Having Growing Pains

**R**iawna Lewis is a big Scion fan. The 23-year-old hairstylist says she gets plenty of stares when she cruises around Santa Monica, Calif., in her boxy xB wagon. But Lewis also has complaints. The stereo makes a popping noise when she plays compact disks, and when she fills her gas tank, the pump often thinks the tank is full when it's not. "I don't want to bash on Scion because I love it," Lewis says. "I'm going to call and let them know."

Measured purely by how quickly cars are flying off dealer lots, Scion, a youth-oriented marque launched by Toyota Motor Corp. in California a year ago, has been a roaring success. Even though it's now available in only 24 states, Toyota is selling 5,200 cars a month—10% better than it expected. By next year, the company hopes to bump that figure up to around 8,000 cars.

But with Scion set to roll out its third model—the \$16,400 tC sports car—and go nationwide in June, Toyota is running into a litany of gripes from customers about poor quality. What's more, a survey of teens conducted by the researcher TNS Automotive North America gave the Scion fair to negative marks. "It's very unusual for a brand to have a negative response so soon after a launch," says

TNS research chief Andy Turton. He notes that teens get turned off if they think a company is trying to manipulate them. The danger is that Toyota could alienate its target audience—the under-26-year-olds who make up the next generation of car buyers.

Toyota's experience with Scion brings to mind the old saw: Be careful what you wish for. With its trendily styled, gadget-stuffed econo-cars, Toyota set out to attract Gen Y.

And it has largely succeeded: The average Scion driver is 27 years old, says Art Spinella, president of CNW Marketing Research Inc. in Bandon, Ore., vs. age 39 for Toyota as a whole.

But as marketing professionals know well, younger buyers can be far more picky than their older counterparts. "They have much higher expectations," says James Farley, Toyota's vice-president for the Scion brand. He notes that Scion is getting three times as many customer comments—both positive and negative—than Lexus, which has notoriously vocal buyers.

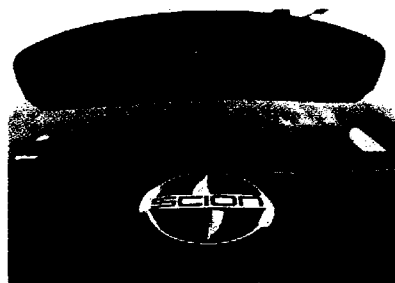
The shock for industry observers came when Scion scored badly in this year's initial quality survey, conducted by industry researcher J.D. Power & Associates Inc. After all, Toyota is practically synonymous with quality. But in the survey, Toyota's youth

brand received 158 complaints for every 100 cars, vs. the industry average of 119. True, the gripes reflected relatively minor problems rather than issues worthy of a recall. Among them: rattles, wind noise, air conditioners that don't cool fast enough, heaters that aren't hot enough, and insufficient power.

Toyota says such glitches are typical of new models, especially low-priced ones with lots of extras. But it can't afford to ignore the

problems, say analysts, since young buyers are fickle. "Toyota has to address the issue, especially with this group," says Spinella. While the company won't say what it's doing to fix the problems, Farley says quality-control teams are hard at work tackling customer complaints. They'd better be. Toyota's big experiment in youth marketing depends on it.

—By Christopher Palmeri in Los Angeles



## THE STAT

Scion sales are running 5,200 a month, 10% better than Toyota expected. But quality problems are worse than average for new cars.

Dieta: Toyota Motor Corp., J.D. Power & Associates Inc.

Science, Vol 292, Issue 5524, 2025-2026, 15 June 2001  
[DOI: 10.1126/science.1060096]

◀ Previous Article

• Table of Contents •

Next Article ▶

## ATMOSPHERIC SCIENCE:

# Reshaping the Theory of Cloud Formation

Robert J. Charlson, John H. Seinfeld, Athanasios Nenes,  
Markku Kulmala, Ari Laaksonen, M. Cristina Facchini\*

Droplet clouds are the most important factor controlling the albedo (reflectivity) and hence the temperature of our planet. Man-made aerosols have a strong influence on cloud albedo, with a global mean forcing estimated to be of the same order (but opposite in sign) as that of greenhouse gases (1), but the uncertainties associated with the aerosol forcing are large. Recent studies indicate that both the forcing and its magnitude may be even larger than anticipated.

Cloud optical properties are controlled by the sizes and numbers of the droplets in the cloud, which are, in turn, governed by the availability of atmospheric particles that serve as cloud condensation nuclei. Twomey (2) suggested that an increase in atmospheric aerosols from anthropogenic emissions would lead to smaller cloud droplets because the same amount of cloud liquid water is distributed among more condensation nuclei. For the same liquid water content, a cloud with more numerous, but smaller, drops has a higher albedo than one with fewer, larger drops. This phenomenon, termed the first indirect climatic effect of aerosols, could constitute a major climate forcing (1). But current estimates of indirect aerosol radiative forcing or of its uncertainty (1) do not include the combined influences of some recently identified chemical factors, each of which leads to additional negative forcing (cooling) on top of that currently estimated.

Estimates of the indirect climatic effect of aerosols are based on the theory of cloud droplet formation advanced by the Swedish scientist Hilding Köhler in the 1920s and 1930s (3, 4). Köhler assumed that clouds consist of "activated" water droplets that grow spontaneously after they have reached a critical size corresponding to a critical value of the supersaturation of water vapor. Köhler further assumed that the aerosol is composed of a completely soluble salt and that the particles are in thermodynamic

▶ [Summary of this Article](#)

▶ [dEbate: Submit a response to this article](#)

▶ [Download to Citation Manager](#)

▶ [Alert me when: new articles cite this article](#)

▶ [Search for similar articles in:](#)

[Science Online](#)  
[ISI Web of Science](#)  
[PubMed](#)

▶ [Search Medline for articles by:](#)  
[Charlson, R. J. || Facchini, M. C.](#)

▶ [Search for citing articles in:](#)  
[ISI Web of Science \(24\)](#)  
[HighWire Press Journals](#)

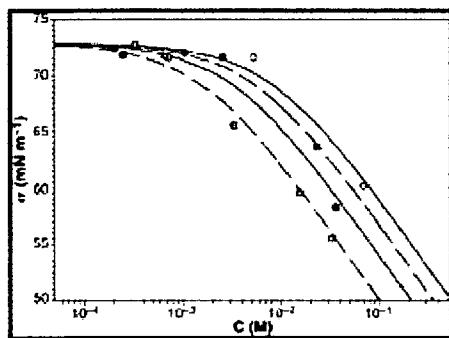
▶ [This article appears in the following Subject Collections:](#)  
[Chemistry](#)

▶ [Atmospheric Science](#)

equilibrium until the point of spontaneous growth. Indeed, it is still generally assumed that a cloud forms only in a supersaturated water environment with all the solute coming from the particle. It has recently become clear, however, that soluble gases (5, 6), slightly soluble solutes (7), and surface tension depression by organic substances (8) also influence the formation of cloud droplets, in a manner unforeseen by Köhler.

Nitric acid ( $\text{HNO}_3$ ) is perhaps the most important highly soluble trace gas in the atmosphere. Ample data establish the prevalence of nitrate as a constituent of cloud and fog water in polluted air (9-11). In the presence of a water-soluble trace gas such as  $\text{HNO}_3$ , the critical supersaturation for that droplet is lowered as the gas condenses into a growing droplet. Depending on how it is dispersed over the aerosol population, a minute amount of soluble gas can exert a profound effect on the number of activated droplets. A striking consequence of the presence of a soluble trace gas is that clouds or fogs with micrometer-sized droplets may exist even though the droplets have not undergone traditional activation and even though the ambient relative humidity never exceeds 100% (5, 6). Such "pollution clouds" have a higher droplet number concentration and a broader droplet size distribution than "clean clouds" (12).

Highly soluble gases are not the only compounds that can affect aerosol activation. The importance of carbonaceous compounds as components of atmospheric aerosols is well established. A variety of measurements have shown that between 20 and 60% of the carbon mass in fine (diameter  $<1\ \mu\text{m}$ ) atmospheric aerosols consists of partially soluble organic compounds (13-16). A partially soluble aerosol component adds solute to the aqueous phase as the droplet grows, decreasing the critical supersaturation of the particle. Many of these organic compounds are surface active (see the figure) (8); if, in addition, surface tension is lowered as the substance dissolves, the critical supersaturation is further lowered, and the number of particles that can activate increases even more. In general, the lowering of surface tension associated with a dissolving substance has a stronger effect on cloud properties than the fact that the substance itself is only partially soluble, given that most water-soluble organic compounds are surface active.



**Surface tension lowering by organics in cloud water.** Surface tension decrease with respect to pure water as a result of water-soluble organic carbon in cloud water (expressed as moles per liter of carbon). Data from Tenerife (Spain) and Po Valley (Italy) taken by one of the authors (M.C.F.).

As predicted by Köhler some 80 years ago, droplet activation places an upper limit on the supersaturation of water vapor that can be reached in the atmosphere. Given sufficient solute or enough depression of surface tension, or a combination of the two, the supersaturation in a given situation will decrease. At high aerosol and soluble trace gas concentrations and for low cooling rates,

strict activation is not necessary for formation of a visible cloud; indeed, a continuum exists from ambient aerosol to wetter and wetter particles to unactivated clouds to activated ones. What is seen as "cloud" can, in reality, be a collection of droplets ranging from fully activated to unactivated.

By affecting cloud optical properties, these chemical phenomena may lead to nonnegligible global negative forcing (17) and may be as important regionally as the Twomey effect itself. To assess the importance of the indirect climatic effect of aerosols, one seeks a robust connection between cloud droplet population and a prognostic variable from global aerosol models. How that link might depend upon chemical cloud activation effects, including variations in aerosol chemical composition, solute water solubility, solute surface tension lowering, and condensation of trace gases, remains to be determined. Lack of global data on these activation effects poses additional uncertainty beyond that already recognized by the Intergovernmental Panel on Climate Change (1), making the largest uncertainty in estimating climate forcing even larger.

## References and Notes

1. Intergovernmental Panel on Climate Change, *Climate Change 2001*, in press.
2. S. Twomey, *J. Atmos. Sci.* **34**, 1149 (1977).
3. H. Köhler, *Meteor. Z.* **38**, 168 (1921).
4. ———, *Trans. Faraday Soc.* **32**, 1152 (1936).
5. M. Kulmala *et al.*, *J. Geophys. Res.* **98**, 22949 (1993) [ADS].
6. A Laaksonen *et al.*, *J. Atmos. Sci.* **55**, 853 (1998).
7. M. L. Shulman *et al.*, *Geophys. Res. Lett.* **23**, 227 (1996) [ADS].
8. M. C. Facchini *et al.*, *Nature* **401**, 257 (1999).
9. S. Fuzzi *et al.*, *Tellus* **44B**, 448 (1992).
10. S. Fuzzi *et al.*, *J. Atmos. Chem.* **19**, 87 (1994).
11. W. Elbert *et al.*, *Atmos. Environ.* **34**, 1109 (2000).
12. G. Frank *et al.*, *Contrib. Atmos. Phys.* **71**, 65 (1998).
13. P. Saxena, L. M. Hildemann, *J. Atmos. Chem.* **24**, 57 (1996).
14. S. Zappoli *et al.*, *Atmos. Environ.* **33**, 2733 (1999).
15. M. C. Facchini *et al.*, *J. Geophys. Res.* **104**, 26821 (1999) [ADS].
16. B. K. Pun *et al.*, *J. Atmos. Chem.* **35**, 199 (2000).
17. Preliminary simulations of cloud albedo differences relative to a baseline case, in which the cloud is formed from an aerosol composed exclusively of soluble salt, show that the presence of surface tension-lowering substances or a soluble gas ( $\text{HNO}_3$ ) leads to an increase in the number of activated droplets and cloud albedo that, if applied globally, is of a climatological significance.

---

R. J. Charlson is in the Department of Atmospheric Sciences and Department of Chemistry, University of Washington, Seattle, WA 98195, USA. J. H. Seinfeld is in the Department of Chemical Engineering and the Division of Engineering and Applied Science, California Institute of Technology, Pasadena, CA 91125, USA. A. Nenes is in the Department of Chemical Engineering, California Institute of Technology, Pasadena, CA 91125, USA. M. Kulmala is in the Department of Physics, University of Helsinki, 00014 Helsinki, Finland. A. Laaksonen is in the Department of Applied Physics, University of Kuopio, 70211 Kuopio, Finland. M. C. Facchini is at the Istituto di Scienze dell' Atmosfera e dell' Oceano-CNR, via Gobetti 101, 40129 Bologna, Italy. E-mail: [seinfeld@caltech.edu](mailto:seinfeld@caltech.edu)

► [Summary of this Article](#)

▶ **dEbate**s: **Submit a response to this article**

---

▶ [Download to Citation Manager](#)

▶ **Alert me when:**  
[new articles cite this article](#)

---

▶ **Search for similar articles in:**

[Science Online](#)  
[ISI Web of Science](#)  
[PubMed](#)

▶ **Search Medline for articles by:**

[Charlson, R. J.](#) || [Facchini, M. C.](#)

▶ **Search for citing articles in:**

[ISI Web of Science \(24\)](#)  
[HighWire Press Journals](#)

---

▶ This article appears in the following Subject Collections:

[Chemistry](#)

▶ [Atmospheric Science](#)

## This article has been cited by other articles:

- Tabazadeh, A., Djikaev, Y. S., Reiss, H. (2002). Surface crystallization of supercooled water in clouds. *Proc. Natl. Acad. Sci. U. S. A.* 99: 15873-15878 [[Abstract](#)] [[Full Text](#)]
- Lohmann, U., Lesins, G. (2002). Stronger Constraints on the Anthropogenic Indirect Aerosol Effect. *Science* 298: 1012-1015 [[Abstract](#)] [[Full Text](#)]
- Ramanathan, V., Crutzen, P. J., Kiehl, J. T., Rosenfeld, D. (2001). Aerosols, Climate, and the Hydrological Cycle. *Science* 294: 2119-2124 [[Abstract](#)] [[Full Text](#)]

Volume 292, Number 5524, Issue of 15 Jun 2001, pp. 2025-2026.

Copyright © 2001 by The American Association for the Advancement of Science. All rights reserved.

**Science now**

|

▲ [PAGE TOP](#)



# Quantifying Stratospheric Ozone in the Upper Troposphere with in Situ Measurements of HCl

T. P. Marcy,<sup>1,2\*</sup> D. W. Fahey,<sup>1,2</sup> R. S. Gao,<sup>1</sup> P. J. Popp,<sup>1,2</sup>  
E. C. Richard,<sup>1,2</sup> T. L. Thompson,<sup>1</sup> K. H. Rosenlof,<sup>1</sup> E. A. Ray,<sup>1,2</sup>  
R. J. Salawitch,<sup>3</sup> C. S. Atherton,<sup>4</sup> D. J. Bergmann,<sup>4</sup> B. A. Ridley,<sup>5</sup>  
A. J. Weinheimer,<sup>5</sup> M. Loewenstein,<sup>6</sup> E. M. Weinstock,<sup>7</sup>  
M. J. Mahoney<sup>3</sup>

We have developed a chemical ionization mass spectrometry technique for precise in situ measurements of hydrochloric acid (HCl) from a high-altitude aircraft. In measurements at subtropical latitudes, minimum HCl values found in the upper troposphere (UT) were often near or below the detection limit of the measurements (0.005 parts per billion by volume), indicating that background HCl values are much lower than a global mean estimate. However, significant abundances of HCl were observed in many UT air parcels, as a result of stratosphere-to-troposphere transport events. We developed a method for diagnosing the amount of stratospheric ozone in these UT parcels using the compact linear correlation of HCl with ozone found throughout the lower stratosphere (LS). Expanded use of this method will lead to improved quantification of cross-tropopause transport events and validation of global chemical transport models.

Ozone ( $O_3$ ) that is produced in the stratosphere and transported into the upper troposphere (UT) is a substantial but uncertain contribution to the tropospheric  $O_3$  budget (1–5). The increase in tropospheric  $O_3$  in the industrial era is a key term in the radiative forcing of climate change (1, 2). A variety of chemical transport models (CTMs) predict a range of total stratosphere-to-troposphere  $O_3$  transport that varies by more than a factor of 3 on a global annual basis (1, 3). The development of an accurate description and quantification of stratosphere-to-troposphere transport in CTMs will be required before an adequate accounting can be made of present and future UT  $O_3$  abundances. No experimental technique has been able to reliably quantify stratospheric  $O_3$  in the UT, particularly if significant mixing has occurred with background tropospheric air.

Long-lived gases (tracers) and correlations between tracers are often used to identify air parcels that have recently crossed the tropopause and to bound the net flux into the troposphere and stratosphere of  $O_3$  and other gases (6–15). However, results from studies with tracers such as carbon monoxide (CO) or beryllium-7 to identify stratospheric  $O_3$  in UT air parcels have been limited generally to being “semiquantitative” (6–9). The limitations arise in part from variable tropospheric sources of the tracer or from the lack of a known, compact, and linear correlation of the tracer with  $O_3$  in the lower stratosphere (LS). Here we demonstrate the suitability of HCl as a quantitative tracer of stratospheric  $O_3$  in the UT, using subtropical in situ measurements made over the United States in the summer of 2002.

HCl has four attributes that underlie the quantification of stratospheric  $O_3$  in the UT and that, as a group, are not shared by any other tracer currently being measured in situ or remotely. These attributes are as follows:

1) HCl has no known, significant sources in the UT, nor is the abundance of HCl expected to be significant in the UT, apart from what is transported from the stratosphere. However, short-lived organic species transported from the surface may be a source under some conditions (16). There are important sources of HCl in the lower troposphere (17, 18), but wet scavenging of HCl in clouds

makes it unlikely that appreciable amounts of HCl reach the UT. The lack of a significant upper tropospheric source is an important attribute, because such a source would create ambiguity as to the origin of HCl observed in the UT.

2) HCl (as well as  $O_3$ ) has a photochemical lifetime on the order of weeks in the UT and LS (supporting online material), due in part to low ultraviolet fluxes and the long lifetimes of the primary halocarbon source molecules for HCl. With a long lifetime, HCl will remain a good tracer of LS  $O_3$  present in the UT until precipitation scavenging results in selective HCl removal from an air parcel.

3) HCl has a compact, linear correlation with  $O_3$  throughout the LS. The correlation occurs because HCl is produced in the middle and upper stratosphere in approximately the same region where  $O_3$  is produced. The linearity of the correlation is the result of the long photochemical lifetimes of HCl and  $O_3$  and of the transport and mixing that occurs in the LS away from the production region (10, 11). A linear correlation is needed in the LS in order to define and minimize the uncertainty in the quantification of stratospheric  $O_3$  in the UT.

4) On the basis of our results, HCl can be measured in situ with high precision [0.005 parts per billion by volume (ppbv)] and high spatial resolution (<1 km). This precision allows stratospheric  $O_3$  amounts as low as 11 ppbv to be detected in the UT.

We measured HCl using a chemical ionization mass spectrometry (CIMS) instrument (19, 20) that was flown on the NASA WB-57F high-altitude aircraft in July 2002. On the flights of 29 and 31 July (hereafter referred to as Flt. A and Flt. B, respectively), the CIMS was operated with a new ion chemistry scheme based on the  $SF_5^-$  reagent ion. The  $SF_5^-$  scheme was developed to obtain sensitive and selective measurements of HCl,  $HNO_3$ , and  $ClONO_2$  in the atmosphere (supporting online material). The detection limit for HCl was 0.005 ppbv (1 s, 1 $\sigma$ ), with an overall accuracy of  $\pm 25\%$  for values above the detection limit. Many other measurements were made simultaneously on board the aircraft. Those used here include  $O_3$ , tropopause height, total reactive nitrogen ( $NO_y$ ), CO, water vapor ( $H_2O$ ), condensation nuclei, and potential temperature (21). The observations were compared to results from a three-dimensional global CTM, the Integrated Massively Parallel Atmospheric Chemical Transport (IMPACT) model (3) (supporting online material).

**HCl in the stratosphere.** Correlations of the HCl and  $O_3$  measurements from Flts. A and B were plotted for altitudes between 11

<sup>1</sup>Aeronomy Laboratory, National Oceanic and Atmospheric Administration, Boulder, CO 80305, USA. <sup>2</sup>Cooperative Institute for Research in Environmental Sciences, University of Colorado, Boulder, CO 80309, USA. <sup>3</sup>Jet Propulsion Laboratory, California Institute of Technology, Pasadena, CA 91109, USA. <sup>4</sup>Atmospheric Science Division, Lawrence Livermore National Laboratory (LLNL), Livermore, CA 94550, USA. <sup>5</sup>National Center for Atmospheric Research, Boulder, CO 80307, USA. <sup>6</sup>NASA Ames Research Center, Moffett Field, CA 94035, USA. <sup>7</sup>Harvard University, Cambridge, MA 02138, USA.

\*To whom correspondence should be addressed. E-mail: tmarcy@al.noaa.gov

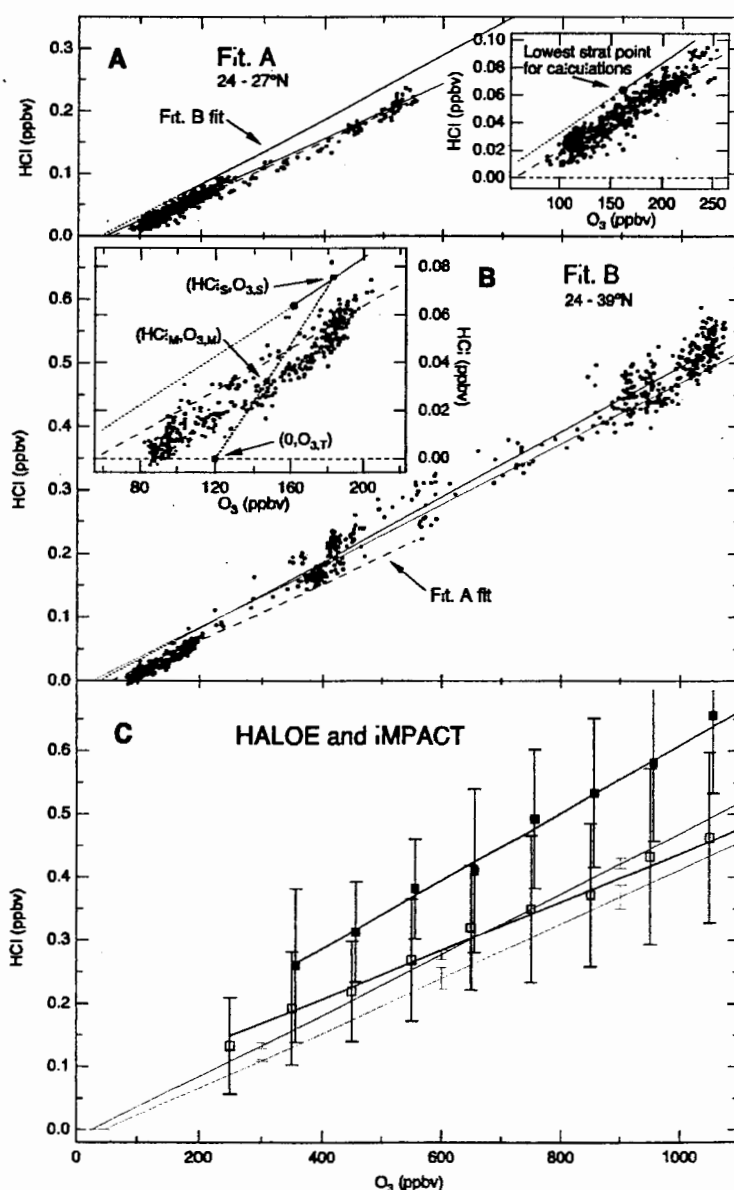
and 18 km, for latitudes between 24°N and 39°N (Fig. 1). The HCl:O<sub>3</sub> correlations are compact and linear in the LS and extend into the UT for both flights. Linear fits are shown for the stratospheric data from each flight. The linear correlations in the LS, which are expected based on the long lifetime of each gas, are produced by effective mixing between end-member air parcels (10, 11). The most extreme end members in this overall mixing process are located in the LS near the tropopause and at altitudes well above the LS observation region. End-member air parcels near the tropopause are formed, in part, from tropospheric air containing low O<sub>3</sub> (<200 ppbv) and low HCl, and entering the stratosphere primarily from low latitudes (<30°) (22–24). Differing amounts of tropospheric O<sub>3</sub> in the air that enters the LS will result in

small differences in the O<sub>3</sub> intercepts of the extrapolated LS correlations. We found small intercept differences between Flts. A and B (Fig. 1, insets). The differences in the LS correlation slopes between the two flights are consistent with the latitude dependence found in other observations and our model results.

The IMPACT model includes explicit treatment of chemistry and transport processes in the LS. The LS correlations in the model runs for late July 2002 show low variability at latitudes of 26°N and 46°N (Fig. 1C). These correlations include tropospheric values of O<sub>3</sub>, because results are shown for altitudes above 9 km (~300 hPa). For comparison to the flight results, the IMPACT correlation fits are included in Fig. 1, A and B. The excellent agreement found for the LS portion provides essential validation of the full stratospheric simulation in IMPACT.

Previously unpublished HCl:O<sub>3</sub> correlations from the Halogen Occultation Experiment (HALOE) satellite data set (25) (Fig. 1C) also show that a linear correlation between HCl and O<sub>3</sub> is ubiquitous in the LS. This data set, as well as the IMPACT results, shows a weak latitude dependence of the slope (supporting online material). HCl in the UT/LS region has also been measured in situ (26, 27) and remotely by instruments on balloons (28) and the space shuttle (27). None of these data sets has been used to examine the HCl:O<sub>3</sub> correlation in the UT/LS or LS-to-UT transport. The HALOE data set stands out among the previous data sets because of its global coverage over more than a decade. The linear fits to the HALOE data are offset (to higher HCl or lower O<sub>3</sub>) with respect to both the IMPACT model results and the in situ observations (supporting online material).

**Fig. 1.** Correlations of measured and modeled mixing ratios of HCl and O<sub>3</sub>. (A and B) Data acquired on two flights during the NASA Cirrus Regional Study of Tropical Anvils and Cirrus Layers–Florida Area Cirrus Experiment (CRYSTAL-FACE) mission during July 2002. Both were 5-hour flights that sampled the UT/LS region up to altitudes near 18 km (200 to 70 hPa). Aircraft data points are divided into groups for the stratosphere (red) and troposphere (green and blue). The distinction between tropospheric and stratospheric data is based on thermal tropopause height measured by remote temperature sounding on board the aircraft. Insets show details of the tropospheric data. Red lines represent unconstrained linear fits to the stratospheric data from Flts. A (dashed) and B (solid) and have slopes of  $(4.4 \pm 0.04) \times 10^{-4}$  and  $(5.1 \pm 0.04) \times 10^{-4}$ , respectively. The CIMS HCl data were acquired at a rate of ~8 Hz during 3 s of every 12-s interval. Data points are averages of each 3-s interval. A spatial resolution of 0.6 km follows from the aircraft speed of ~200 m s<sup>-1</sup>. (A) Data from Fit. A, in the latitude range of 24°N to 27°N near Key West, FL. The blue line is a linear fit to the IMPACT model results near Key West (26°N, 280°E) from 15 July to 1 August 2002. Strat, stratospheric. (B) Data from Fit. B, which originated in Key West and covered latitudes from 24°N to 39°N before landing in Houston, TX (30°N). The blue points are tropospheric data from the first flight leg (near Key West), and the green points are tropospheric data from the second leg (near Houston). The green line is a linear fit to the IMPACT model results and is also shown in (C). Inset: Details of the tropospheric data along with a hypothetical mixing line (dotted black line) that shows that an arbitrary air parcel ( $\text{HCl}_{\text{mix}}, \text{O}_{3,\text{mix}}$ ) can be formed from mixing between two other air parcels: the stratospheric end member ( $\text{HCl}_s, \text{O}_{3,s}$ ) and the tropospheric end member ( $0, \text{O}_{3,T}$ ). The larger red point on the Fit. B fit line in the insets indicates the lowest stratospheric point used in the calculation of the stratospheric O<sub>3</sub> fraction. (C) Results from the HALOE satellite and the IMPACT model. The HALOE data are from the month of July for each of the years 1993 to 2003, for pressures between 83 and 35 hPa. The data were filtered to remove retrievals with anomalously high methane values (>1650 ppbv) that skew the retrieved HCl values (25). The data are binned in 100-ppbv O<sub>3</sub> intervals, and black error bars give the standard deviations in each bin. The black lines are linear fits to the HALOE data between 20°N and 50°N [black squares, slope of  $(5.4 \pm 0.17) \times 10^{-4}$ ] and between 20°S and 20°N [open squares, slope of  $(3.9 \pm 0.15) \times 10^{-4}$ ]. The IMPACT results are averages from 29 July to 1 August, 2002, at latitudes of 26°N (blue line) and 46°N (green line) and longitudes between 255°E and 285°E. The error bars on the IMPACT fit lines are standard deviations for selected 100-ppbv O<sub>3</sub> bins. Only model results from altitudes >9 km (300 hPa) and with <600 or <1000 ppbv O<sub>3</sub> are included, for consistency with the data from Flts. A and B, respectively. The model slopes are  $(4.30 \pm 0.01) \times 10^{-4}$  and  $(4.81 \pm 0.01) \times 10^{-4}$  for 26°N and 46°N, respectively.





**HCl in the troposphere.** Significant amounts of HCl were present in tropospheric air parcels (Fig. 1, green and blue data points). The tropopause height along the flight track, which is used to distinguish tropospheric from stratospheric air, is derived from temperature soundings made on board the aircraft (21, 29). Two features of the tropospheric data are apparent. First, many air parcels have minimum HCl values that are at or near the detection limit of 0.005 ppbv, implying that background HCl is very low in the UT. Average HCl for part of Flt. B (Fig. 1, green points) is particularly notable because average HCl is  $0.007 \pm 0.005$  ppbv, over a horizontal distance of 300 km at an altitude of 14 km. These observations alone suggest that large regions of the UT generally will have HCl values much lower than 0.1 ppbv, which is a current budget estimate for average free-tropospheric HCl (17). For our lowest HCl values ( $<0.02$  ppbv), the associated  $O_3$  values were less than 150 ppbv, which is consistent with values expected from ozone sonde climatologies for the background UT (30). The second data feature is that the HCl: $O_3$  correlations in the tropospheric data set are compact and essentially linear in both flights, with slopes comparable to the LS correlations. These compact correlations provide strong evidence that the UT HCl values, which range up to nearly 0.1

ppbv, result from the transport of substantial amounts of stratospheric air and  $O_3$  into the UT. In addition, the fact that no UT data points fall above the extrapolated stratospheric fit line is a further indication of the absence of a substantial HCl source in the background UT, other than transport from the stratosphere.

The IMPACT results (Fig. 1C) also show that the HCl: $O_3$  compact correlation extends below the tropopause ( $\sim 200$  ppbv  $O_3$ ) and that low values ( $<0.02$  ppbv) of HCl are reached. The minimum model HCl values reached in the observational area near Florida were  $<0.005$  ppbv. These UT model features are highly consistent with those found in the observations. IMPACT uses a constant surface mixing ratio for HCl of 0.085 ppbv to simulate the surface source. Vertical profiles of HCl previously measured in the troposphere show elevated concentrations (up to 0.5 ppbv) near the surface, due to localized sources, and much lower levels (near 0.05 ppbv) at the 7-km upper limit of the measurements (18). We conducted a separate IMPACT simulation in which we evaluated the contribution of surface HCl to the free troposphere by doubling the imposed surface HCl mixing ratio. The resulting change in HCl in the UT was negligible (31). This test indicates that wet deposition is very effective in the model in preventing surface HCl from reaching the UT.

The HCl: $O_3$  correlation on Flt. A is contrasted with the correlations of  $O_3$  with  $NO_y$ , CO,  $H_2O$ , and condensation nuclei (Fig. 2). Several important points follow from this comparison. First, these non-HCl tracers, which are routinely measured in situ, also show compact correlations with  $O_3$  in the LS (and therefore also with HCl). In the UT, the compactness of these other correlations is greatly reduced, with non-HCl tracer values exceeding those found in the LS. These changes are a result of the highly variable tropospheric sources of  $NO_y$ , CO,  $H_2O$ , and condensation nuclei, which create large values and spatial gradients of these tracers in the UT that are unrelated to stratospheric intrusions. The changes in these non-HCl correlations exemplify, in part, why they cannot be used routinely to quantify stratospheric  $O_3$  in the UT with useful accuracy. Second, the HCl: $O_3$  correlation contrasts sharply with those of the other tracers, showing essentially no change in compactness between the LS and UT. If significant HCl amounts were produced in the UT or transported from the surface to the UT, a less compact HCl: $O_3$  correlation plot would be expected in the UT, with data points that occur in the shaded region in Fig. 2A. Third, the contrast in the compactness of the UT correlations between HCl and the other tracers provides strong evidence that the UT parcels shown in Fig. 2 result from mixing of stratospheric and tropospheric air; hence, the contrast also provides evidence that the transport of LS air to the UT is irreversible in this case. Finally, the compact LS correlations of the non- $O_3$  tracers with HCl, as implied by the data in Fig. 2, could also be used to quantify stratospheric abundances of these non- $O_3$  tracers in the UT in a manner similar to that described below for  $O_3$ .

**Quantifying stratospheric  $O_3$  in the UT.** When HCl measurements are used to quantify the amount of stratospheric  $O_3$  transported to the UT or mixed into UT air parcels, two key assumptions are required. First, the HCl/ $O_3$  ratio is conserved during transport of stratospheric air into the UT. This follows from the long photochemical lifetimes of both tracers and the general absence of wet scavenging of HCl in stratosphere-troposphere exchange events in the UT. Second, in the UT parcels under consideration, the amount of HCl from nonstratospheric sources is negligible in comparison to that transported from the LS. Here, the definition of stratospheric  $O_3$  in the UT is  $O_3$  that has recently been above the thermal tropopause (29).

Based on these assumptions, the amount of stratospheric  $O_3$  in a UT parcel can be expressed as

$$\text{Stratospheric } [O_3] = [HCl]_{\text{UT}} \cdot [O_3]_{\text{LS}} / [HCl]_{\text{LS}} \quad (1)$$

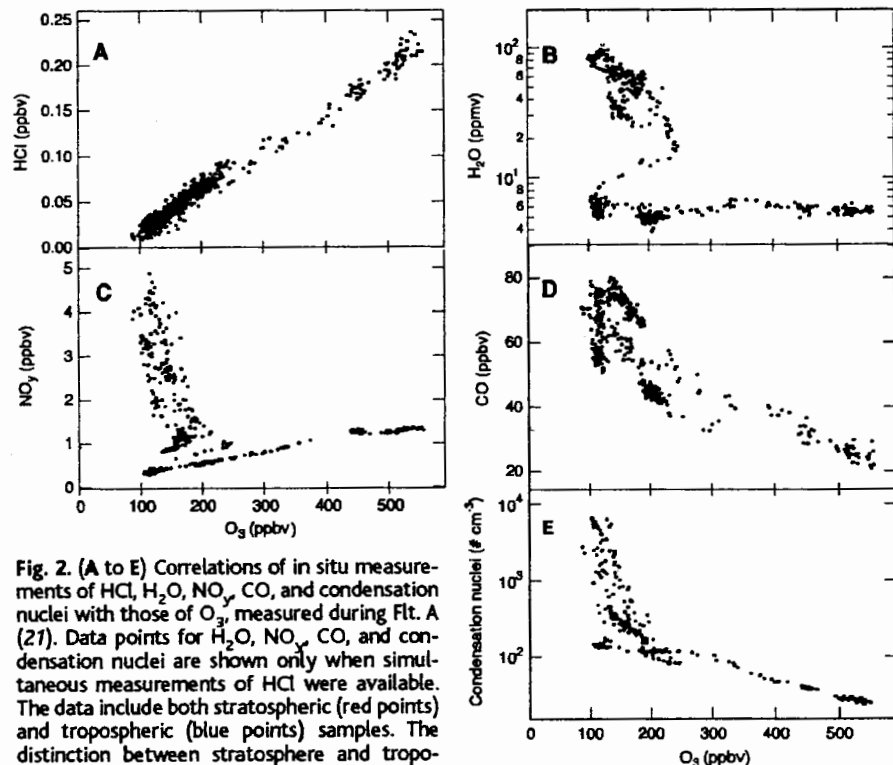


Fig. 2. (A to E) Correlations of in situ measurements of HCl,  $H_2O$ ,  $NO_y$ , CO, and condensation nuclei with those of  $O_3$ , measured during Flt. A (27). Data points for  $H_2O$ ,  $NO_y$ , CO, and condensation nuclei are shown only when simultaneous measurements of HCl were available. The data include both stratospheric (red points) and tropospheric (blue points) samples. The distinction between stratosphere and troposphere data is based on the onboard remote sounding of the thermal tropopause height. The absence of data points in the shaded region of (A) is evidence of a negligible tropospheric background of HCl.

where brackets indicate abundance,  $[HCl_M]$  is the measured HCl in the UT parcel, and  $[O_3_s]/[HCl_s]$  is the ratio of  $O_3$  to HCl in the air parcel(s) that are the source of the stratospheric  $O_3$ . This expression reflects the fact that HCl-containing air parcels sampled in the UT are, in general, the result of a multi-stage mixing process between parcel(s) of stratospheric air and parcel(s) of background tropospheric air (Fig. 1) (supporting online material). The origin of the stratospheric air in a particular UT parcel influences the choice of the  $[O_3_s]/[HCl_s]$  ratio used in Eq. 1 for that parcel. For example, meteorological trajectory analysis for Flts. A and B shows that stratospheric air entered the troposphere over the Florida region throughout July through isentropic transport from higher latitudes (32). As a consequence, the average  $[O_3_s]/[HCl_s]$  ratio of 2250 from Flt. B, the higher latitude flight, is chosen here to calculate the fraction of stratospheric  $O_3$  for both flights. One source of uncertainty in the  $[O_3_s]/[HCl_s]$  ratio is associated with the assumption of negligible background HCl in the UT. Although the observational and model results suggest that background HCl values as low as 0.005 ppbv are common in the UT, the true range and distribution of background values will not be known until more extensive observations are made. A background HCl value equal to the detection limit (0.005 ppbv) corresponds to a detection limit for stratospheric  $O_3$  in Eq. 1 of 11 ppbv. Based in part on this background value, the overall

uncertainty in a stratospheric  $O_3$  value is estimated as the sum of  $\pm 15\%$  of the value and  $\pm 11$  ppbv (supporting online material).

The stratospheric  $O_3$  fractions for Flts. A and B are shown as vertical profiles (Fig. 3). The UT data separate into two cases. The first case (Fig. 3, blue points) represents remnants of recent intrusions of mid-latitude stratospheric air into the UT above Florida. The fractions vary from 0.2 to 0.9, indicating a wide range of irreversible mixing of UT and LS air. The error bars are examples of the estimated uncertainties in the fraction. The second case (Fig. 3, green points) represents UT air far from the mid-latitude intrusions found over Florida, with fractions that vary over a narrower range, from 0.0 to 0.4. This group includes the 300-km ( $31^\circ N$  to  $33^\circ N$ ) flight segment, over which the average HCl amount was 0.007 ppbv. The vertical ranges in the two cases are also distinct. In the first, the intrusion affects several kilometers below the tropopause. In the second, the influence of stratospheric  $O_3$  is negligible a kilometer below the tropopause. The IMPACT model also shows a UT disturbance over Florida (supporting online material) (fig. S1), which is nominally consistent with the large stratospheric  $O_3$  values in the first case. Although the model results are limited by low vertical resolution, this comparison provides a first-order example of how to use in situ HCl observations to confirm stratosphere-to-troposphere exchange events and the accumulation of  $O_3$  from such exchange in CTMs.

Quantifying stratospheric ozone in UT air parcels (as with Eq. 1) is distinct from, but related to, quantifying the amount of stratospheric air that is transported to the UT or mixed with UT air. A given amount of stratospheric  $O_3$  in a UT air parcel can result from mixing with a small fraction of stratospheric air with high  $O_3$  content or a larger fraction of stratospheric air with a lower  $O_3$  content. Although the fraction of stratospheric air in a measured UT parcel cannot be determined from the HCl and  $O_3$  measurements (because the particular stratospheric end members involved in the mixing are unknown), we can derive an upper limit by assuming that the stratospheric end-member parcel has the lowest observed value of  $O_3$ , which is  $\sim 160$  ppbv in this study. Values near this upper limit are more likely than lower values, because stratospheric parcels with the lowest  $O_3$  values are near the tropopause and hence are more likely to be involved in cross-tropopause intrusion and mixing events.

Stratospheric HCl molecules irreversibly mixed into the UT will be lost from an air parcel after sufficient time through wet removal processes. Stratospheric  $O_3$  molecules in the UT will participate in various photochemical cycles that might lead to their destruction. The independent loss of HCl and the production and removal of  $O_3$  from UT parcels represent a limitation in the use of Eq. 1 for long periods after an exchange event (33).

The ability of CTMs to resolve  $O_3$  transport to the UT has improved considerably in recent years (34, 35). For example, CTM analysis of the low-latitude UT shows large-scale intrusions of  $O_3$  confirmed by lidar soundings (34). Direct comparisons of model results with estimates of stratospheric  $O_3$  in the UT obtained with high-precision HCl observations, in addition to other tracer measurements, have great potential to describe fine- and large-scale details of the exchange process. These details will facilitate a resolution of the inconsistencies in global UT  $O_3$  budgets regarding the stratospheric source (1). Our observations constrain the UT HCl budget and indicate that background values in large regions of the UT are much lower than published estimates. Global measurements of HCl and  $O_3$  in the UT will facilitate meaningful tests of the representation of stratospheric intrusions in CTMs and will lead to improved estimates of HCl source strengths and transport and removal processes.

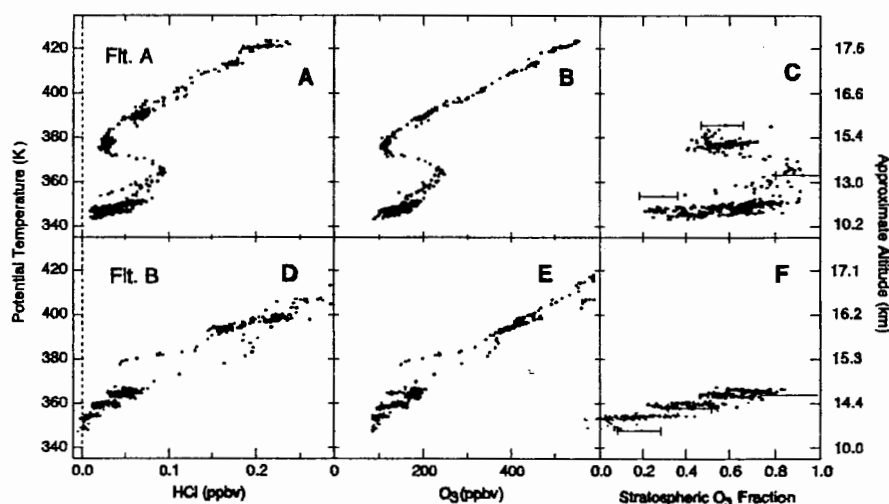


Fig. 3. Vertical profiles of measured HCl,  $O_3$ , and the calculated stratospheric  $O_3$  fraction for (A to C) Flt. A and (D to F) Flt. B. The data set is identical to that used in Fig. 1. Each profile is shown with calculated potential temperature (left axis) and the approximate corresponding altitude (right axis). Potential temperature is derived from onboard temperature and pressure measurements. Data are shown for the stratosphere (red points) and the troposphere (green and blue points). The blue points in (C) and (F) are affected by a stratospheric intrusion, caused by flow around a quasistationary anticyclone that was located over the south-central United States for most of the preceding month (33). The green points in (D), (E), and (F) are from the second leg of Flt. B (covering a horizontal distance of about 300 km between  $33^\circ N$  and  $31^\circ N$  and just more than 1 km below the tropopause) and correspond to the green points in Fig. 1B. The error bars in (C) and (F) are representative examples of the uncertainty in the calculated stratospheric  $O_3$  fractions.

#### References and Notes

1. J. T. Houghton et al., Eds., *Climate Change 2001: The Scientific Basis* (Cambridge Univ. Press, New York, 2001).
2. M. Gauss et al., *J. Geophys. Res.* **108**, 10.1029/2002JD002624 (2003).
3. D. A. Rotman et al., *J. Geophys. Res.* **109**, 10.1029/2002JD003155 (2004).
4. F. C. Fehsenfeld, S. C. Liu, in *Global Atmospheric*

- Chemical Change*, C. N. Hewitt, W. T. Sturges, Eds. (Elsevier, New York, 1993), pp. 169–231.
5. A. Stohl et al., *J. Geophys. Res.* **108**, 10.1029/2002JD002490 (2003).
  6. H. Fischer et al., *Geophys. Res. Lett.* **27**, 97 (2000).
  7. P. Hoor, H. Fischer, L. Lange, J. Lelieveld, D. Brunner, *J. Geophys. Res.* **107**, 10.1029/2000JD000289 (2002).
  8. A. Zahn et al., *J. Geophys. Res.* **107**, 10.1029/2001JD001529 (2002).
  9. J. E. Dibb et al., *J. Geophys. Res.* **108**, 10.1029/2001JD001347 (2003).
  10. R. A. Plumb, M. K. W. Ko, *J. Geophys. Res.* **97**, 10145 (1992).
  11. R. A. Plumb, D. W. Waugh, M. P. Chipperfield, *J. Geophys. Res.* **105**, 10047 (2000).
  12. J. Lelieveld et al., *Geophys. Res. Lett.* **24**, 603 (1997).
  13. C. D. Nevison et al., *Global Biogeochem. Cycles* **13**, 737 (1999).
  14. D. M. Murphy, D. W. Fahey, *J. Geophys. Res.* **99**, 5325 (1994).
  15. C. M. Volk et al., *J. Geophys. Res.* **102**, 25543 (1997).
  16. C. A. Ennis, Ed., *Scientific Assessment of Ozone Depletion: 2002* [World Meteorological Organization (WMO), Geneva, 2003].
  17. T. E. Graedel, W. C. Keene, *Global Biogeochem. Cycles* **9**, 47 (1995).
  18. B. Vierkorn-Rudolph, K. Backmann, B. Schwarz, F. X. Meixner, *J. Atmos. Chem.* **2**, 47 (1984).
  19. J. A. Neuman et al., *Rev. Sci. Instr.* **71**, 3886 (2000).
  20. J. A. Neuman et al., *Atmos. Environ.* **35**, 5789 (2001).
  21. We measured  $O_3$  by a fast-response, dual-beam, ultraviolet-absorption ozone photometer with an overall uncertainty of 5% (36). We measured  $NO_y$  with an  $NO/O_3$  chemiluminescence instrument (37) with an overall uncertainty of  $\pm(0.015 \text{ ppbv} + 9\%)$ ;  $H_2O$  with a Lyman- $\alpha$  photofragment fluorescence hygrometer (38) with an accuracy of  $\pm 10\%$ ; CO by tunable diode laser absorption with precision of  $\pm 7.4 \text{ ppbv}$ ; and condensation nuclei with a nucleation-mode aerosol size spectrometer (39) with a combined uncertainty of  $\pm 38\%$ . The tropopause height was measured with a microwave temperature profiler (40) within an accuracy of 0.5 km. Temperature and pressure were measured with aircraft probes, with accuracies of 0.5 K and 0.5 hPa, respectively.
  22. J. R. Holton et al., *Rev. Geophys.* **33**, 403 (1995).
  23. A. F. Tuck et al., *Q. J. R. Meteorol. Soc.* **123**, 1 (1997).
  24. K. H. Rosenlof et al., *J. Geophys. Res.* **102**, 13213 (1997).
  25. J. M. Russell III et al., *J. Geophys. Res.* **101**, 10151 (1996).
  26. C. R. Webster et al., *J. Geophys. Res.* **105**, 11711 (2000).
  27. H. A. Michelsen et al., *Geophys. Res. Lett.* **26**, 921 (1999).
  28. G. C. Toon et al., *J. Geophys. Res.* **104**, 26779 (1999).
  29. A chemical or dynamical definition of the tropopause will give different, usually lower, tropopause heights than the thermal WMO definition (41). Here, the primary concern is to identify the stratospheric  $HCl/O_3$  ratio. Because there will often be some tropospheric influence in the US, choosing the highest commonly accepted tropopause value is the most reliable approach for determining the stratospheric  $HCl/O_3$  ratio. Of the commonly used methods, the thermal tropopause has often been the highest value (41).
  30. J. A. Logan, *J. Geophys. Res.* **104**, 16115 (1999).
  31. The doubling of the IMPACT HCl surface boundary condition to 0.17 ppbv resulted in changes in the UT (pressure altitudes above 220 hPa) of less than 2% for much of the globe, with peak differences of 5 to 10%. The model results give HCl abundances of less than 0.01 ppbv for much of the global UT with either HCl surface value, because of the very low efficiency of transport of surface HCl to the UT and the lack of any local HCl source in the UT.
  32. E. C. Richard et al., *J. Geophys. Res.* **108**, 10.1029/2003JD003884 (2003).
  33. An estimate of the time before upper troposphere air mixes with lower tropospheric air is given by the turnover time of the tropical upper troposphere of  $\sim 10$  days (42). The times might be longer for regions at higher latitudes away from convection.
  34. O. Wild et al., *J. Geophys. Res.* **108**, 10.1029/2002JD003283 (2003).
  35. D. A. Hauglustaine, G. P. Brasseur, *J. Geophys. Res.* **106**, 32337 (2001).

36. M. H. Proffitt, R. L. McLaughlin, *Rev. Sci. Instrum.* **54**, 1719 (1983).
37. B. A. Ridley et al., *J. Geophys. Res.* **99**, 25519 (1994).
38. E. M. Weinstock et al., *Rev. Sci. Instrum.* **65**, 3544 (1994).
39. J. C. Wilson, W. T. Lai, S. D. Smith, *J. Geophys. Res.* **96**, 17415 (1991).
40. R. F. Denning, S. L. Guidero, G. S. Parks, B. L. Gary, *J. Geophys. Res.* **94**, 16757 (1989).
41. S. Bethan, G. Vaughan, S. J. Reid, Q. J. R. Meteorol. Soc. **122**, 929 (1996).
42. M. J. Prather, D. J. Jacob, *Geophys. Res. Lett.* **24**, 3189 (1997).
43. We thank the pilots and crew of the NASA WB-57F for making the airborne measurements presented here possible, J. C. Wilson for use of condensation

nuclei data, and L. L. Gordley and A. Stohl for helpful discussions. Partially supported by NASA's Upper Atmospheric Research Program and Radiation Science Program. Work at the Jet Propulsion Laboratory (R.J.S. and M.J.M.) was carried out under contract with NASA. Participation of LLNL authors occurred through the University of California under the auspices of the U.S. Department of Energy contract no. W-7405-ENG-48.

#### Supporting Online Material

www.sciencemag.org/cgi/content/full/304/5668/261/

DC1

SOM Text

Fig. S1

References and Notes

7 November 2003; accepted 11 March 2004

## Functional Conversion Between A-Type and Delayed Rectifier $K^+$ Channels by Membrane Lipids

Dominik Oliver,<sup>1\*</sup> Cheng-Chang Lien,<sup>1\*</sup> Malle Soom,<sup>2</sup> Thomas Baukrowitz,<sup>2</sup> Peter Jonas,<sup>1†</sup> Bernd Fakler<sup>1†</sup>

Voltage-gated potassium (Kv) channels control action potential repolarization, interspike membrane potential, and action potential frequency in excitable cells. It is thought that the combinatorial association between distinct  $\alpha$  and  $\beta$  subunits determines whether Kv channels function as non-inactivating delayed rectifiers or as rapidly inactivating A-type channels. We show that membrane lipids can convert A-type channels into delayed rectifiers and vice versa. Phosphoinositides remove N-type inactivation from A-type channels by immobilizing the inactivation domains. Conversely, arachidonic acid and its amide anandamide endow delayed rectifiers with rapid voltage-dependent inactivation. The bidirectional control of Kv channel gating by lipids may provide a mechanism for the dynamic regulation of electrical signaling in the nervous system.

The action potential (AP) is the fundamental unit of information in the brain (1). Its shape is of critical importance in many forms of neuronal signaling (2–5). Voltage-gated potassium (Kv) channels shape the AP by controlling its repolarization phase and determine the membrane potential and duration of the interspike interval (1). Delayed rectifier Kv channels keep single APs short and permit high-frequency trains of APs (6). Rapidly inactivating A-type channels help a cell fire at low frequency (7) and promote broadening of APs during repetitive activity (6).

It is widely accepted that the functional properties of Kv channels are determined by their  $\alpha$ - and  $\beta$ -subunits [Kv $\alpha$  families 1 to 4 (8) and Kv $\beta$  families 1 to 3 (9)]. Most Kv $\alpha$  subunits encode delayed rectifier

channels with slow inactivation, whereas only a few exhibit A-type behavior (8). Inactivation is generated by two distinct mechanisms. One is the N-type (or ball-and-chain) inactivation, in which an N-terminal protein domain of certain Kv $\alpha$  or Kv $\beta$  subunits plugs the open channel pore from the cytoplasmic side (10); the other is C-type inactivation, which appears to result from constriction or collapse of the channel's selectivity filter (11).

Membrane phospholipids and their metabolites are implicated in regulation of excitability and retrograde modulation at synapses (12, 13). Lipid molecules in plasma membranes regulate the gating of ion channel proteins. The phospholipid phosphatidylinositol-4,5-bisphosphate (PIP<sub>2</sub>) modifies the gating of inward rectifier (Kir)  $K^+$  channels (14–16), KCNQ-type  $K^+$  channels (17), voltage-gated  $Ca^{2+}$  channels (18), and transient receptor potential (TRP) channels (19). The polyunsaturated fatty acid arachidonic acid (AA) and its amide anandamide modulate two-pore-domain  $K^+$  channels (20) and TRP channels (21). Lipid effects on Kv channels, however,

<sup>1</sup>Institute of Physiology, University of Freiburg, Hermann-Herder-Straße 7, 79104 Freiburg, Germany.

<sup>2</sup>Institute of Physiology II, University of Jena, Teichgraben 8, 07744 Jena, Germany.

\*These authors contributed equally to this work.

†To whom correspondence should be addressed. E-mail: bernd.fakler@physiologie.uni-freiburg.de (B.F.) and peter.jonas@physiologie.uni-freiburg.de (P.J.)

# **Diesel – What the Future Holds**

## Challenges, Technical Advancements and Potential for the Light Duty US Market

***Dr. J. Gary Smyth***

*Engineering Director,*

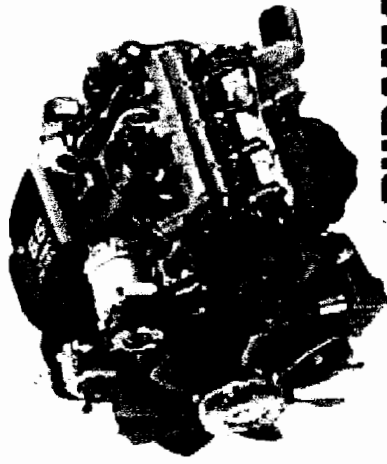
*General Motors Powertrain Advanced Engineering*

The California Air Pollution Control Officer's Association (CAPCOA)

28 January 2004



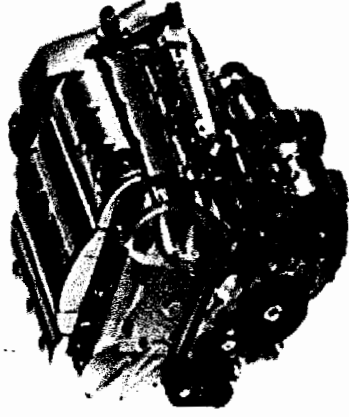
# Current Portfolio of GMPT Diesel Engines



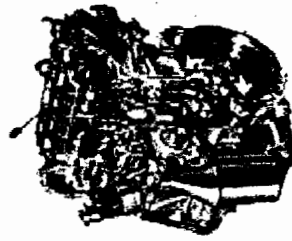
**V-8 (6.6L) DURAMAX  
DIESEL**



**Circle L I-4 (1.7L)**



**V-6 (3.0L)**



**I-4 SDE (1.25L)**



**I-4 JTD (1.9L)**

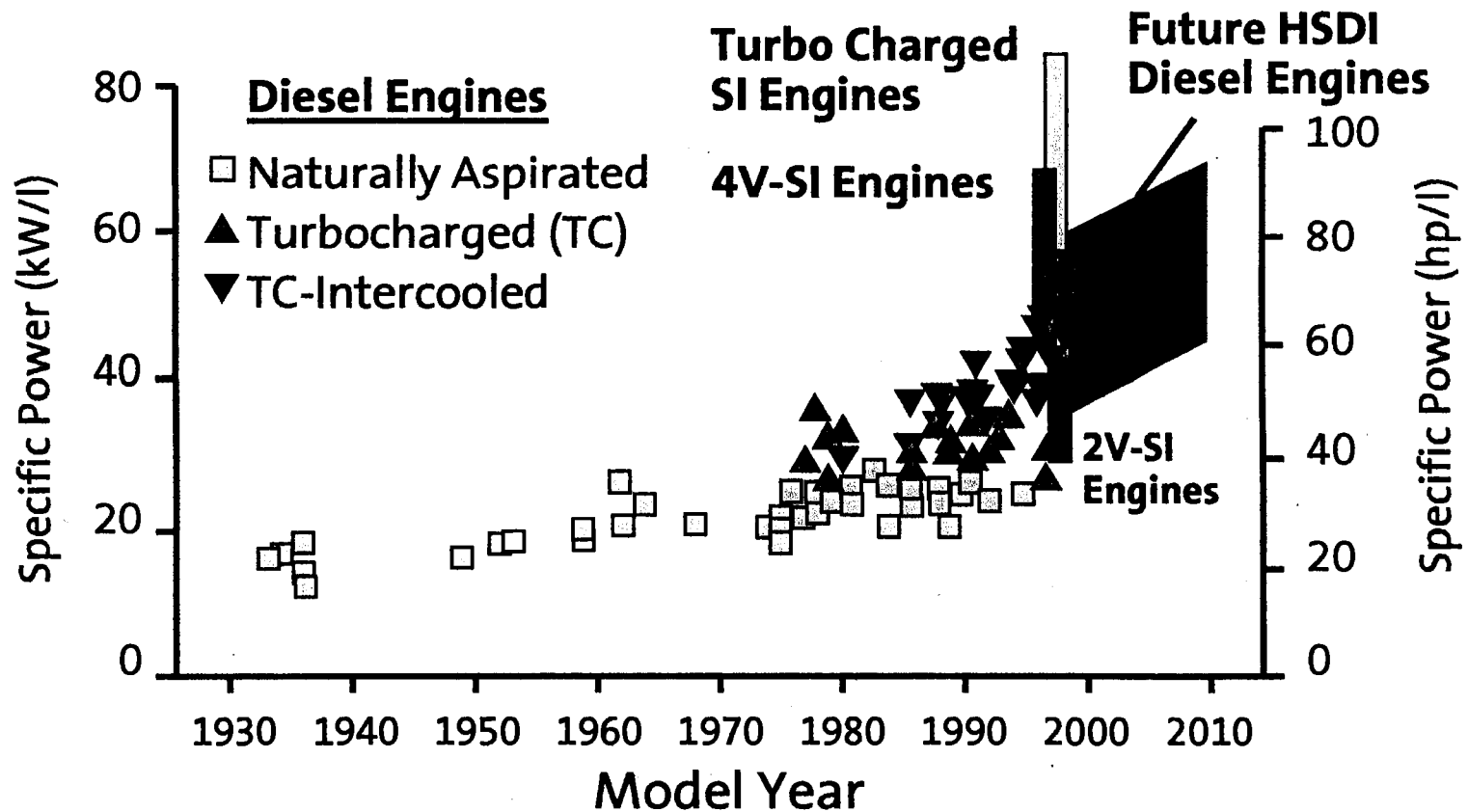


**Family II: I-4 (2.0L)**



# Diesel Engine Trends – Europe

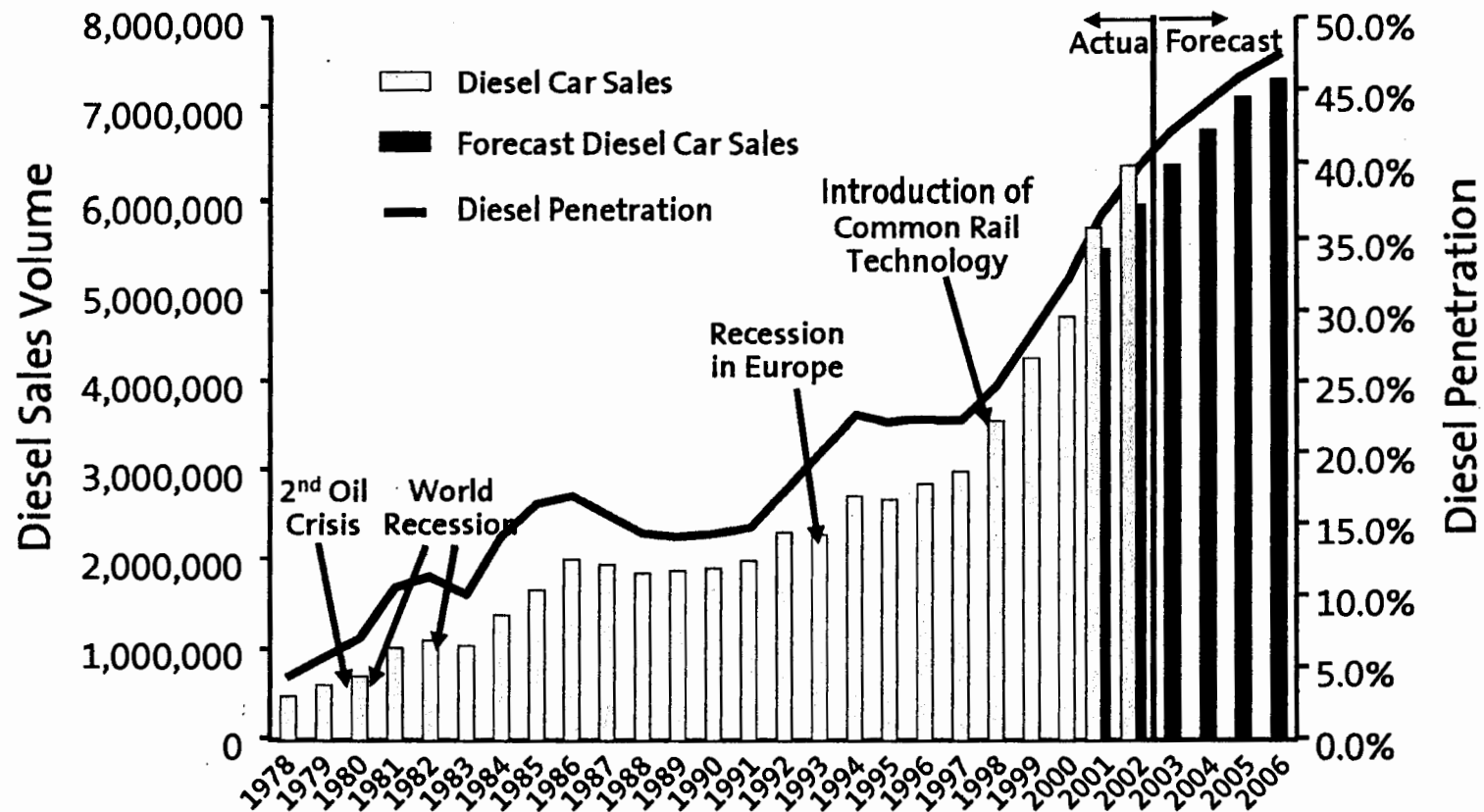
Benchmark trends to help predict requirements



# Volume Growth In Europe

## Western Europe

Historical & Forecast Diesel Passenger Car Sales & Market Penetration to 2006

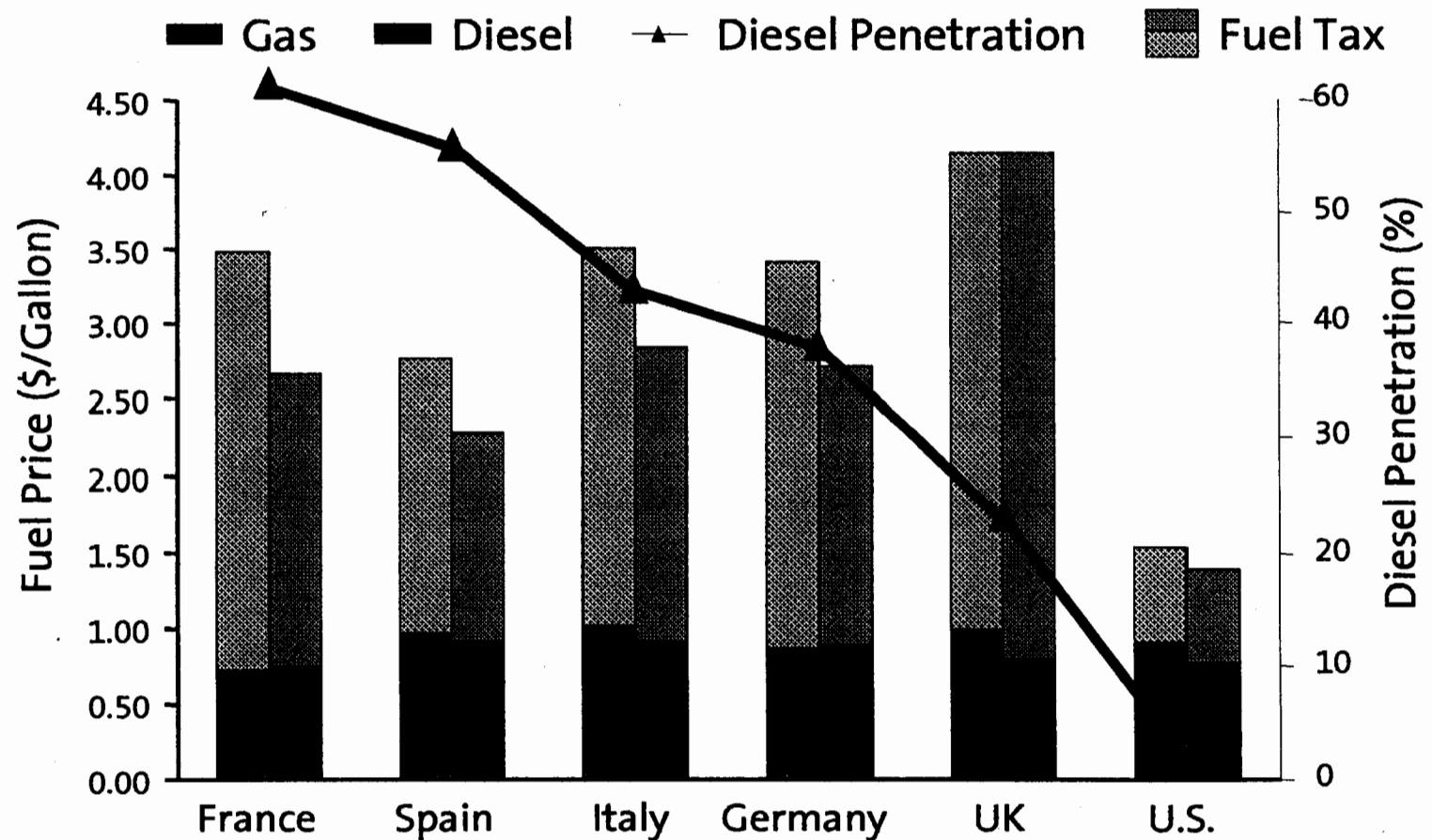


SOURCE: data from Schmidt's Diesel Car Prospects to 2006



# Economic Model

## Comparison between U.S. & Europe



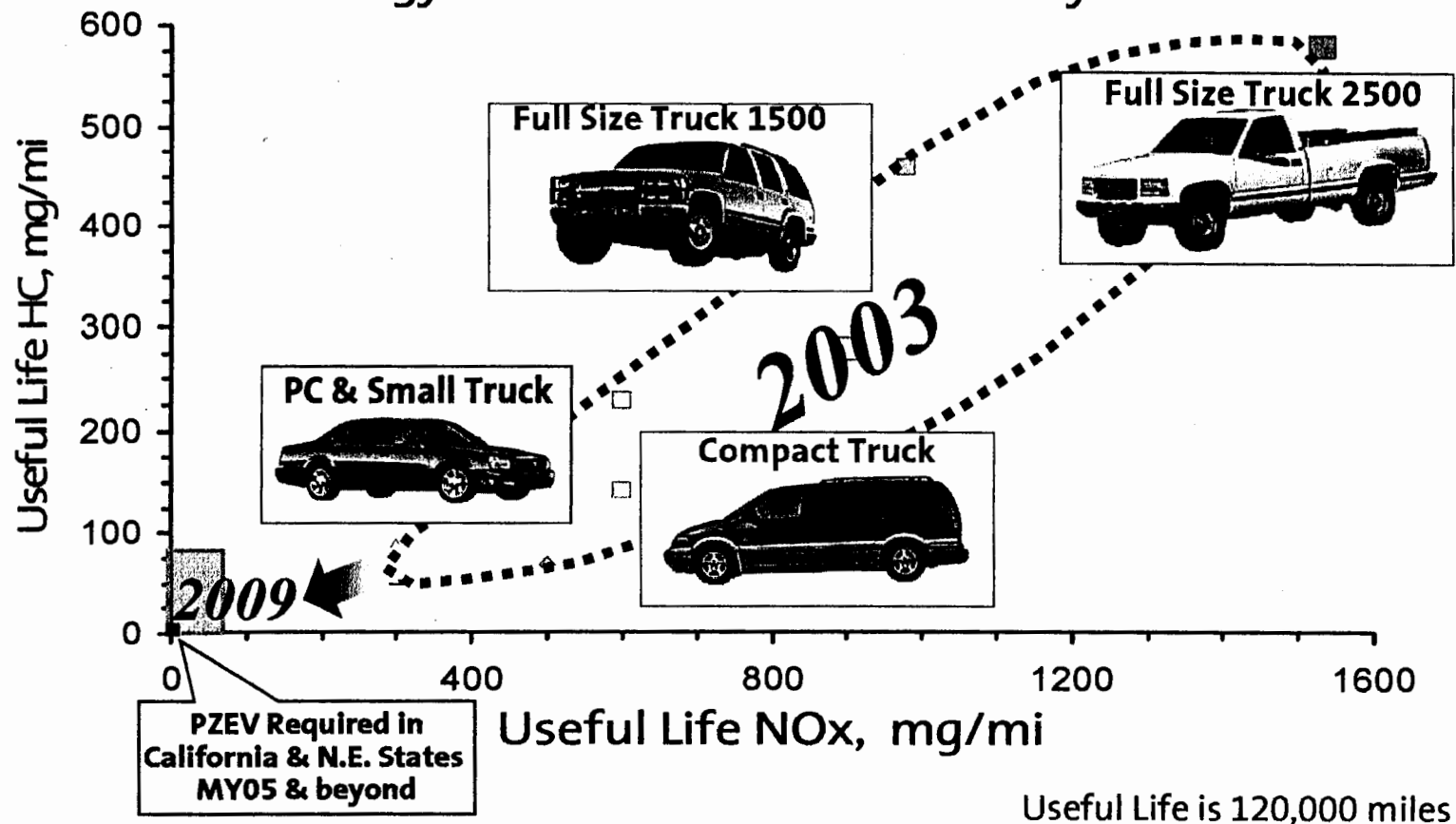
GM Europe, 2002 Q1-Q3 Diesel Share; 2000 Transportation Energy Data Book Edition 20



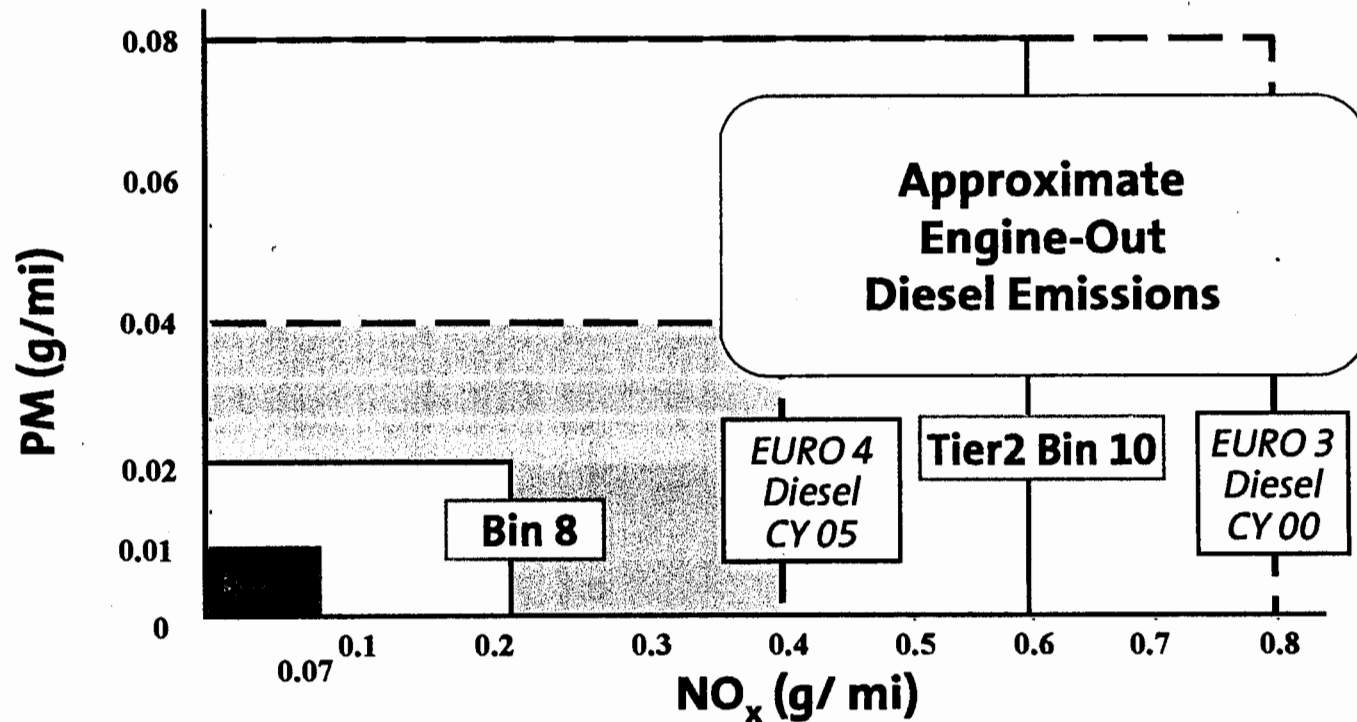


## North American Exhaust Emissions Challenge 2003-09

- HC, NOx & particulate emissions marching toward zero
- Trucks are treated as big passenger cars
- Fuel & technology neutral – difficult for lean systems



# Europe vs. U.S. Tier-2 FTP-75 Light-Duty Emissions: Tier 2 is 1/6<sup>th</sup> the NO<sub>x</sub> standard of Euro IV!



Emission = (g/mi)	Emission Index (g/kg Fuel)	X	Fuel Consumption (kg/mi)
	<i>NOx &amp; TP practically independent vehicle ITW</i>		<i>Increasing with vehicle ITW</i>



# FTP-75 versus US-06 Drive Cycles

## FTP-75 & NEDC are similar

- Produce similar emissions

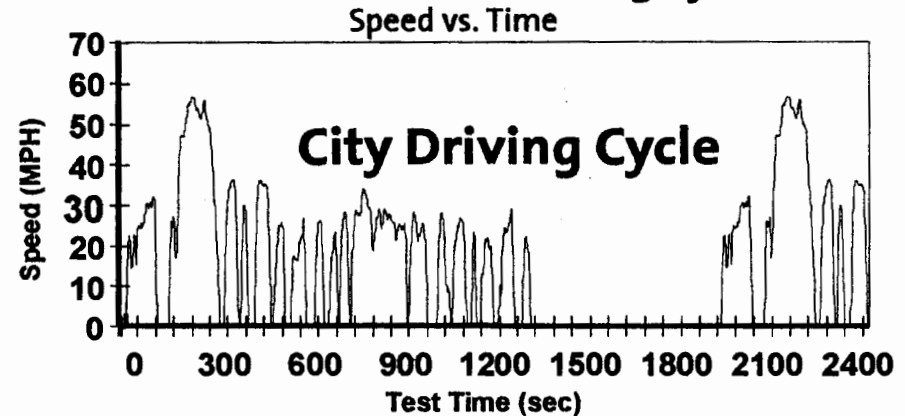
## Supplemental FTP (SFTP) includes:

- US-06
- SC-03 (accessory load)

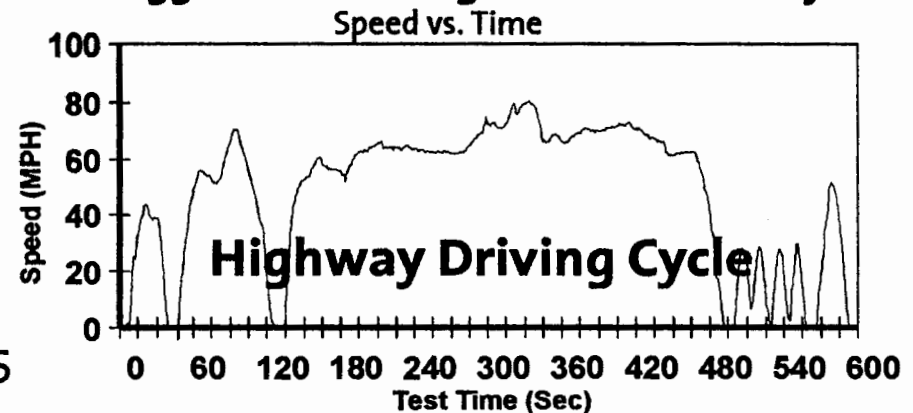
## US06 is more challenging

- US-only
- Higher load
- Higher speed
- Higher NO<sub>x</sub>
- 50% to 150% NO<sub>x</sub> > FTP-75

## FTP Emissions Test Driving Cycle








## US06 Aggressive Driving Emissions Test Cycle



NEDC = New European Drive Cycle

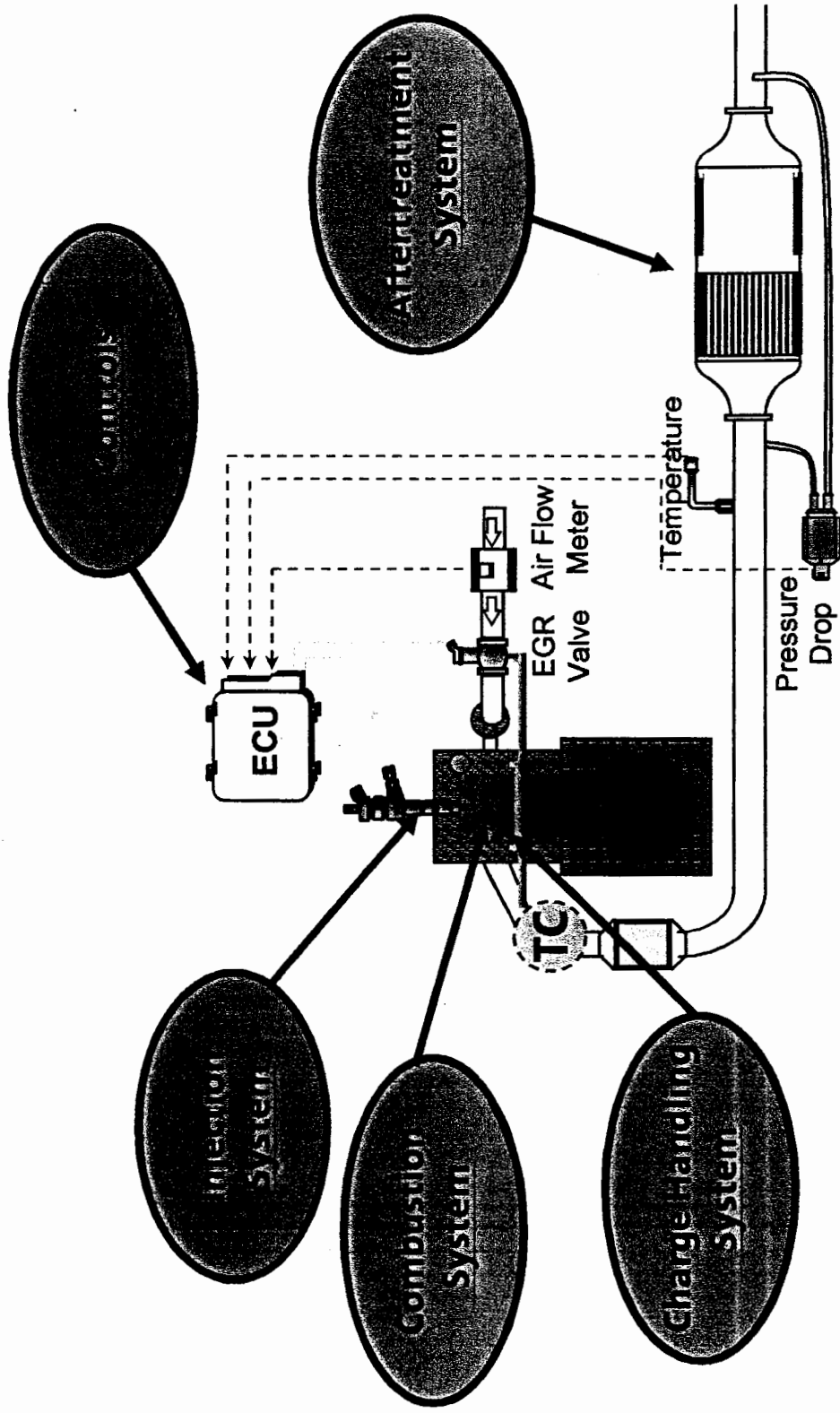


# US-06 Emissions Limits versus FTP-75

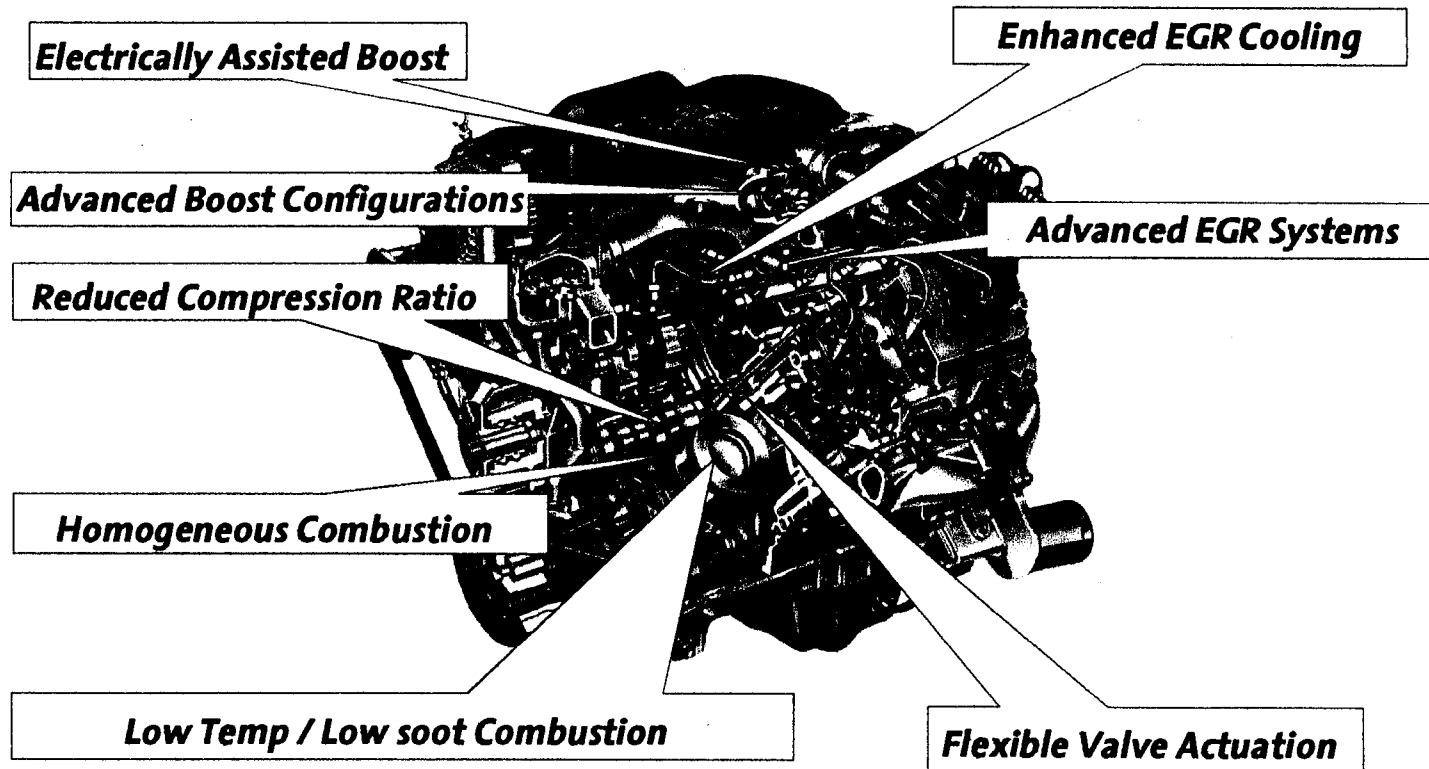
	US-06 NMHC+NO <sub>x</sub>	US-06 CO	FTP Bin 8 (@120K) NMHC+NO <sub>x</sub>	FTP Bin 5 (@120K) NMHC+NO <sub>x</sub>
<b>PC/LDT1</b> 	<b>.140 g/mile</b>	<b>8.000</b>	<b>.325</b>	<b>.160</b>
<div> <div>More difficult US06 test has lower standard than FTP</div> </div>				
<b>LDT2</b> 	<b>0.250</b>	<b>10.500</b>	<b>.325</b>	<b>.160</b>
<b>LDT3</b> 	<b>0.400</b>	<b>10.500</b>	<b>.325</b>	<b>.160</b>
<b>LDT4</b> 	<b>0.600</b>	<b>11.800</b>	<b>.325</b>	<b>.160</b>
<b>MDPV</b> 	<b>Not applicable</b>	<b>Not applicable</b>	<b>.325</b>	<b>.160</b>



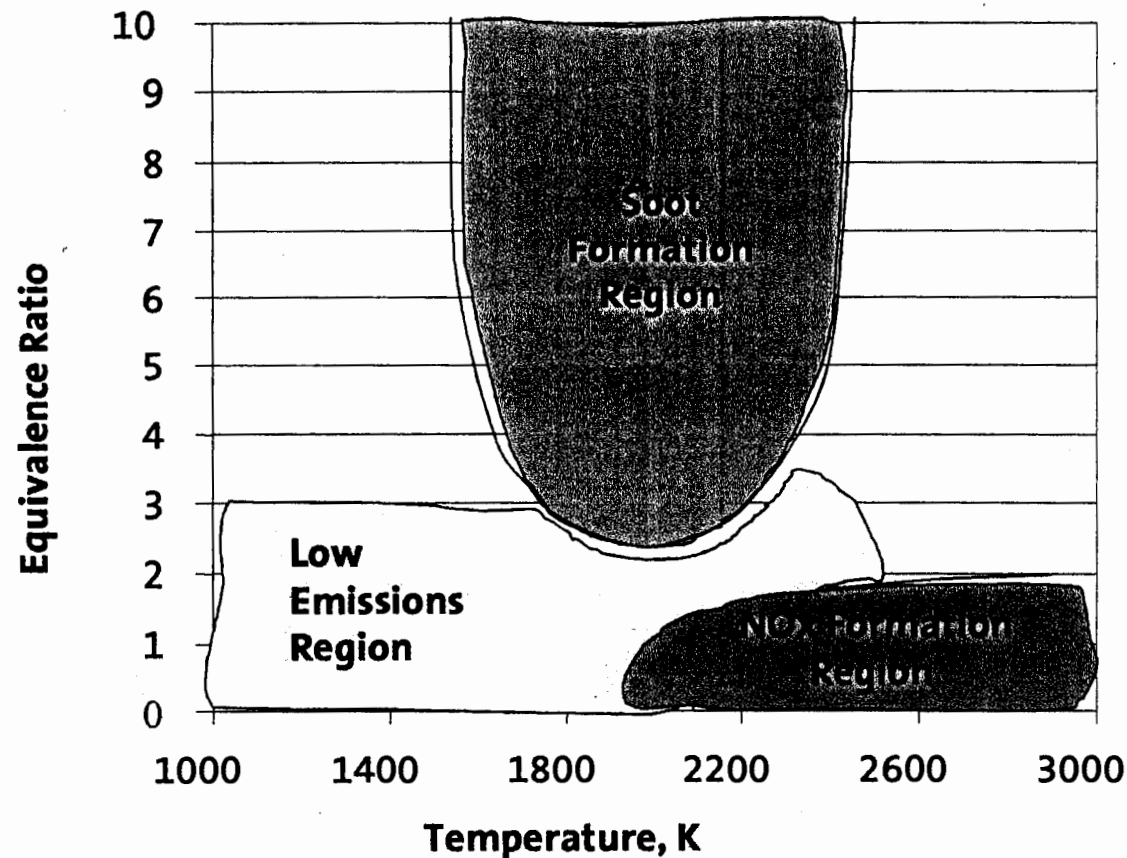
# Diesel Technology Roadmap



# Base Engine Technology Development Areas



# Reducing Soot and NOx in the Combustion Process – The Key to Success



# Diesel Aftertreatment Systems

- DOC
- DPF
- NOx reduction
  - Urea SCR
  - Lean NOx trap
  - Exploratory techniques
- Combination LNT/DPF

## Urea SCR System

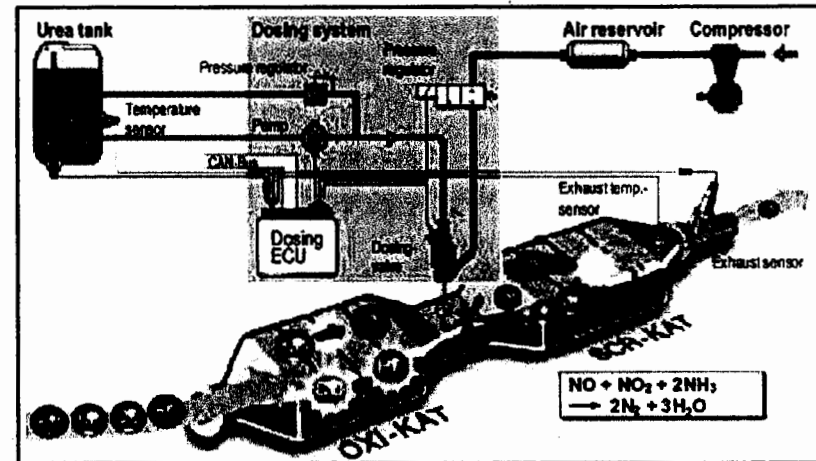
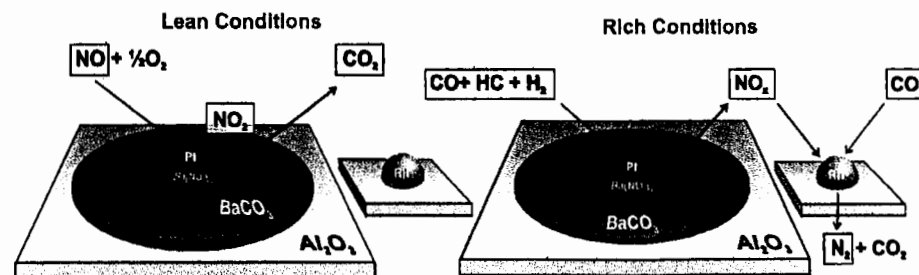


Fig. 3 - SCR catalyst and dosing system (Source: Bosch)

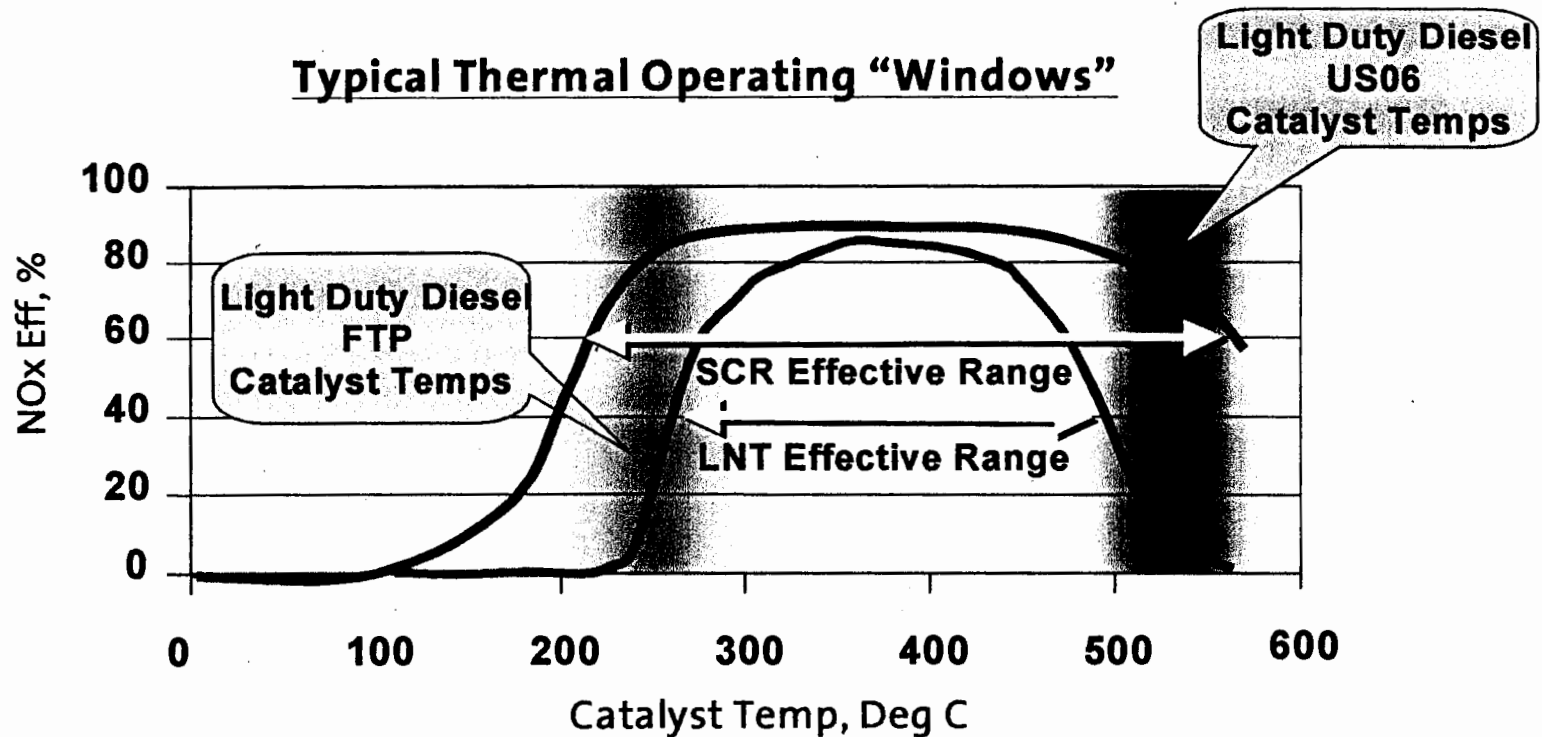
## Lean NOx Trap





# Aftertreatment Systems:

Balancing the requirements of FTP with US06



# Diesels are More Expensive than Gas Equivalents

Diesel costs are typically higher than for a comparable gas engine

- Diesel is approximately twice the cost of gasoline engine
- U.S. diesels lack scale economy advantages of gas engines

Cost is driven by additional content

- Variable geometry turbocharger (VGT)
- Intercooler
- High pressure fuel injection system
- Additional block and head structure to address higher peak pressures
- Cooled exhaust gas recirculation (EGR)

Diesel cost may increase to meet more stringent emission standards

- Addition of costly aftertreatment (lean NOx trap & DPF)



# Economic Model

## Comparison between U.S. & Europe – Diesel Break-Even Point

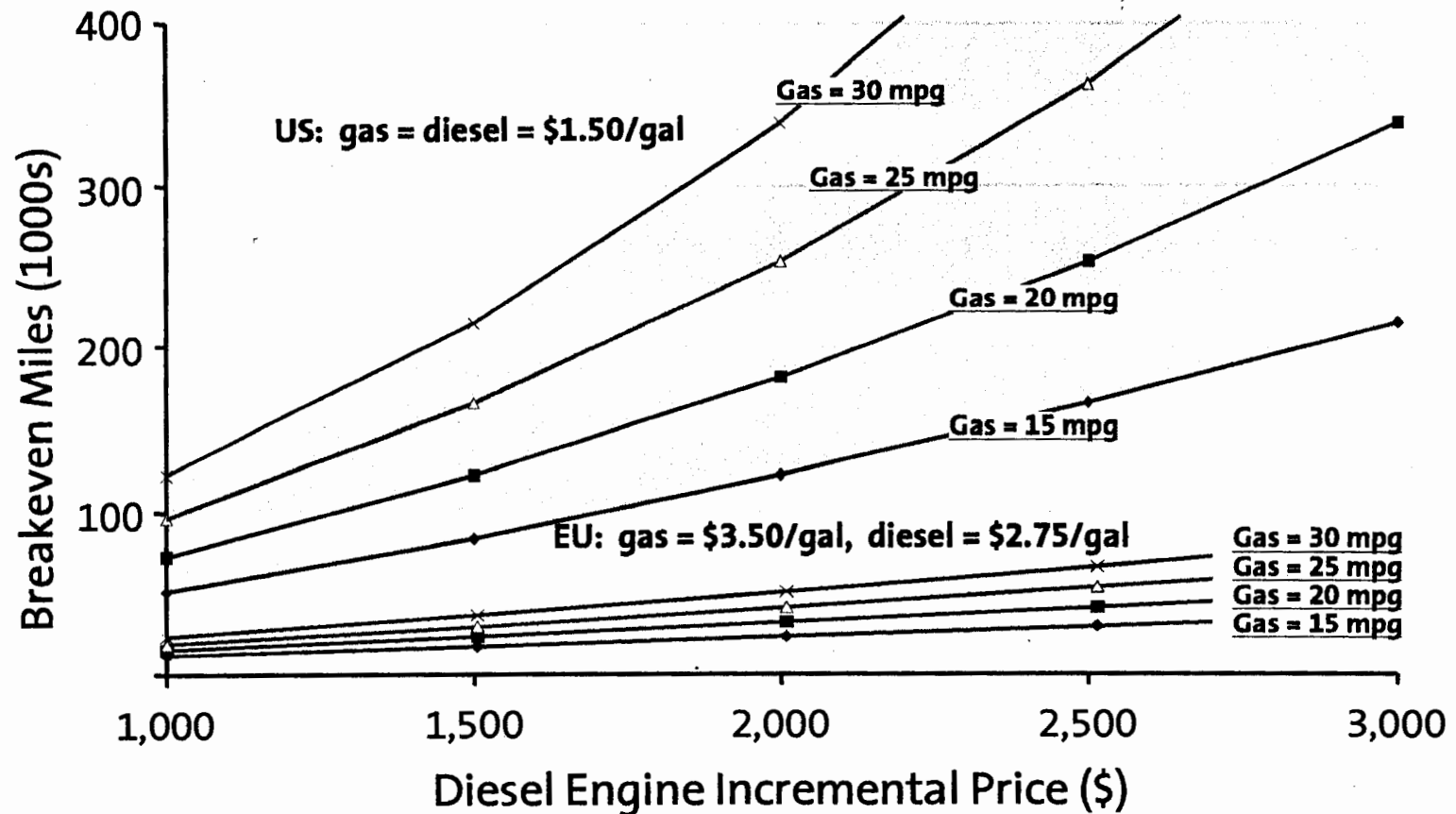


Chart assumes diesel gets 30% better fuel economy, 20,000 mile/yr, and an 8%/yr interest rate



## In Summary

- Diesel engines are a critical part of GM's global product portfolio
- Significant development is ongoing to develop the diesel as a viable alternative to gasoline powered engines for North America
  - The challenge is achieving future NOx legislation (1/6<sup>th</sup> that of Europe) at an acceptable cost
- Emission regulations, fuel price, taxation based on engine displacement and fuel consumption largely dictate in which markets diesels are popular today
  - The voluntary commitment of 140g/km CO2 is another key driver for diesels in Europe
- The advancements in diesel technology over the past 15 years in Europe have radically changed the publics' perception of diesels
  - High performance (torque)
  - Fun to drive
  - Refined
  - Significant penetration in luxury vehicle segments



34. L. Marufu, F. J. Dentener, J. Lelieveld, M. O. Andreae, G. Helas, *J. Geophys. Res.* **105**, 14513 (2000).
35. We constructed an anthropogenic emission data set on a 1° by 1° grid resolution, based on the historical Emission Database for Global Atmospheric Research (EDGAR) inventory of Van Aardenne *et al.* (36), using recent updates of energy-, industry-, and agriculture-related data sets per country and economic sector. The trend in ship emissions over the Atlantic Ocean has been derived by scaling the EDGAR data with international bunker fuel data from Endresen *et al.* (37).
36. J. A. van Aardenne, F. J. Dentener, J. G. J. Olivier, C. G. M. Klein Goldewijk, J. Lelieveld, *Global Biogeochem. Cycles* **15**, 909 (2001).
37. Ø. Endresen *et al.*, *J. Geophys. Res.* **108**, 4560, 10.1029/2002JD002898 (2003).
38. J. Burkert *et al.*, *J. Geophys. Res.* **106**, 5457, 10.1029/2000JD900613 (2001).
39. T. Brauers, M. Hausmann, A. Bister, A. Kraus, H.-P. Dorn, *J. Geophys. Res.* **106**, 7399, 10.1029/2000JD900679 (2001).
40. A. M. Thompson *et al.*, *Geophys. Res. Lett.* **27**, 3317, 10.1029/1999GL011273 (2000).
41. R. V. Martin *et al.*, *J. Geophys. Res.* **107**, 4351, 10.1029/2001JD001480 (2002).
42. G. S. Jenkins, J.-H. Ryu, A. M. Thompson, J. C. Witte, *J. Geophys. Res.* **108**, 4745, 10.1029/2002JD003297 (2003).
43. D. P. Edwards *et al.*, *J. Geophys. Res.* **108**, 4237, 10.1029/2002JD002927 (2003).
44. We thank the crews and technicians on the vessels *Meteor*, *Polarstern*, *Walther Herwig*, *Anton Dohrn*, *Ymer*, *Academie Fedorov*, and *Berlin Express*, on which the ozone measurements were performed; A. Stickler for the trajectory analyses, completed as part of his thesis work and the German Weather Service (DWD) and the Max Planck Society (MPG) for their support of the long-term O<sub>3</sub> measurements and their analysis.

## Supporting Online Material

www.sciencemag.org/cgi/content/full/1096777/DC1  
SOM Text

Fig. S1

References

13 February 2004; accepted 3 May 2004

Published online 13 May 2004;

10.1126/science.1096777

Include this information when citing this paper.

## Atmospheric New Particle Formation Enhanced by Organic Acids

Renyi Zhang,<sup>1\*</sup> Inseon Suh,<sup>1</sup> Jun Zhao,<sup>1</sup> Dan Zhang,<sup>1</sup>  
Edward C. Fortner,<sup>1</sup> Xuexi Tie,<sup>2</sup>  
Luisa T. Molina,<sup>3</sup> Mario J. Molina<sup>3</sup>

Atmospheric aerosols often contain a substantial fraction of organic matter, but the role of organic compounds in new nanometer-sized particle formation is highly uncertain. Laboratory experiments show that nucleation of sulfuric acid is considerably enhanced in the presence of aromatic acids. Theoretical calculations identify the formation of an unusually stable aromatic acid-sulfuric acid complex, which likely leads to a reduced nucleation barrier. The results imply that the interaction between organic and sulfuric acids promotes efficient formation of organic and sulfate aerosols in the polluted atmosphere because of emissions from burning of fossil fuels, which strongly affect human health and global climate.

Aerosols influence the Earth-atmosphere system in several distinct ways (1, 2). Concerns over the human health effects of fine particulate matter constitute the most important element in formulating the national ambient air quality standard (3). Also, aerosols directly or indirectly affect the Earth's radiation budget (4, 5), and light absorption by aerosols causes visibility degradation. Furthermore, modification of clouds and precipitation by aerosols may enhance lightning activity and thus influence tropospheric chemistry (6, 7). The impacts of particulate matter on health, radiation, and cloud microphysics are strongly dependent on the particle sizes.

Several processes determine the aerosol size distribution, including new particle production (as a result of gas-to-particle conversion), growth due to condensation and coag-

ulation, removal rates, and primary emissions. New particle formation or nucleation is the least understood of these steps (8). Much of the previous research has focused on nucleation of sulfuric acid, because sulfate represents an important component of the nucleation mode aerosol (9). It is commonly recognized that binary nucleation of H<sub>2</sub>O-H<sub>2</sub>SO<sub>4</sub> is not efficient enough to explain atmospheric new particle formation (10). Progress recently has been made in assessing the importance of ternary water-sulfuric acid-ammonia nucleation (11, 12), ion-induced nucleation (13, 14), and nucleation involving iodide species (15, 16).

The role of organic compounds in new particle formation is another potentially important issue (17). Atmospheric measurements reveal that aerosols often contain a considerable amount of organic matter (18–21). During photooxidation of volatile organic compounds (VOCs), non- or semivolatile organic products are produced that contribute to secondary organic aerosol (SOA) formation. For example, in the urban atmosphere the aromatic component in gasoline (mainly toluene and xylenes) is responsible for SOA formation caused by oxidation of these com-

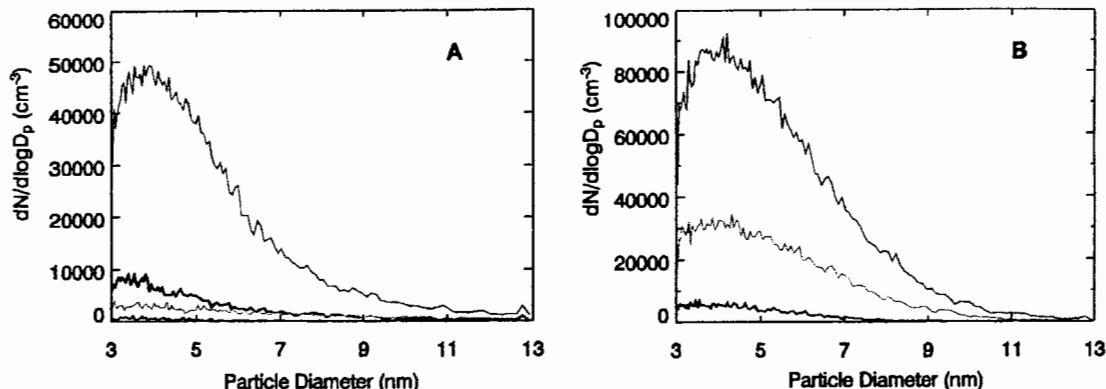
pounds (22). Current theory of SOA formation assumes that condensation of low-volatility organic species such as carboxylic or dicarboxylic acids occurs on preexisting particles from primary emissions or formed by homogeneous nucleation, most probably involving sulfuric acid-ammonia-water or ions (8). Alternatively, it is suggested that SOA nucleation may occur through the formation of stable organic heterodimers (23). Currently, few experimental studies have investigated new particle formation from organic acids. Another process, which also influences the chemical composition of organic aerosols, involves absorption of gaseous species onto particulate matter. On the basis of consideration of the thermodynamic equilibrium distribution of a compound between the gas and condensed phases, a gas-particle partitioning model has been proposed (24) and invoked to explain the observed correlation between the SOA yield and the organic aerosol mass concentration (22, 25). More recently, it has been suggested that sulfate aerosols catalyze heterogeneous reactions of carbonyl compounds, leading to a considerably enhanced SOA yield (26). The growth of SOA from both mechanisms depends on preexisting particles, which are linked to new particle formation or primary emissions.

To assess the role of low-volatility organic species in new particle formation, we performed laboratory studies of particle nucleation from aromatic acid vapors and their mixtures with H<sub>2</sub>SO<sub>4</sub> (27). Aromatic acids, such as benzoic (C<sub>7</sub>H<sub>6</sub>O<sub>2</sub>), *p*-toluic (C<sub>8</sub>H<sub>8</sub>O<sub>2</sub>), and *m*-toluic (C<sub>8</sub>H<sub>8</sub>O<sub>2</sub>) acids, are products from photochemical degradation of aromatic hydrocarbons emitted from automobiles in the urban atmosphere (28) and have been identified in the particle phase (29, 30). Nanometer-sized particles were produced in an aerosol chamber, and the particle concentration and size distribution were monitored with an ultrafine particle counter (model 3025A, TSI Incorporated Particle Instruments, St. Paul, MN) and a nanodifferential mobility analyzer (model 3085, TSI Incorporated Particle Instruments) capable of measuring particle

<sup>1</sup>Department of Atmospheric Sciences, Texas A&M University, College Station, TX 77843, USA. <sup>2</sup>Atmospheric Chemistry Division, National Center for Atmospheric Research, Boulder, CO 80307, USA. <sup>3</sup>Department of Earth, Atmospheric, and Planetary Sciences and Department of Chemistry, Massachusetts Institute of Technology, Cambridge, MA 02139, USA.

\*To whom correspondence should be addressed. E-mail: zhang@ariel.mit.edu

Fig. 1. Measured particle size distributions of the nucleating aerosols. In (A), the brown and black curves correspond to  $\text{H}_2\text{SO}_4$  aerosol formation with a RH of 5% and gaseous  $\text{H}_2\text{SO}_4$  concentrations of  $6 \times 10^9$  and  $8 \times 10^9$  molecule  $\text{cm}^{-3}$ , respectively. The green and orange curves are similar to the brown and black curves, respectively, except for addition of 0.04 ppb benzoic acid to the aerosol chamber. In (B), the brown curve corresponds to  $\text{H}_2\text{SO}_4$  aerosol formation with a RH of 5% and a gaseous  $\text{H}_2\text{SO}_4$  concentration of  $7 \times 10^9$  molecule  $\text{cm}^{-3}$ . The green and orange curves are similar



to the brown curve, except for the addition of 0.04 and 0.1 ppb benzoic acid (corresponding to  $1 \times 10^9$  and  $2.5 \times 10^9$  molecule  $\text{cm}^{-3}$ ), respectively. The experiments were performed at  $298 \pm 2$  K and a total pressure of 760 torr.

sizes as small as 3 nm (fig. S1). Gas-phase concentrations of the organic and sulfuric acids in the aerosol chamber were monitored with the use of proton-transfer reaction mass spectrometry and chemical ionization mass spectrometry, respectively (31, 32). We initially generated  $\text{H}_2\text{SO}_4$  aerosols by introducing gas-phase  $\text{H}_2\text{SO}_4$  in a nitrogen carrier gas with a variable relative humidity (RH). For a gaseous  $\text{H}_2\text{SO}_4$  concentration in the range of  $10^9$  to  $10^{10}$  molecule  $\text{cm}^{-3}$ , the particle sizes formed ranged from 3 to 10 nm (Fig. 1), corresponding to the nucleation mode. The observed particle concentration increased when the gaseous  $\text{H}_2\text{SO}_4$  concentration or RH was increased. A marked increase in the particle concentration occurred when benzoic acid vapor was added to the aerosol chamber (Fig. 1). With  $\text{H}_2\text{SO}_4$  concentrations of  $6 \times 10^9$  and  $8 \times 10^9$  molecule  $\text{cm}^{-3}$ , addition of 0.04 ppb (parts per billion) benzoic acid increased the particle concentration by a factor of 5 (Fig. 1A). For a fixed  $\text{H}_2\text{SO}_4$  concentration, higher amounts of benzoic acid resulted in more pronounced particle formation (Fig. 1B). Figure 1 shows that the measured peak diameter of the particle distribution shifted slightly to a larger size with addition of benzoic acid, implying that the presence of benzoic acid both enhanced nucleation and contributed to the growth of the newly nucleated particles. Substantially larger peak diameters ( $>10$  nm) were detected when benzoic acid concentrations were increased by one to two orders of magnitude.

The aerosol nucleation rate,  $J$ , was estimated on the basis of the ratio of the measured particle concentration to the nucleation time (33). In the absence of organic acids, the nucleation rate is dependent on the gas-phase  $\text{H}_2\text{SO}_4$  concentration and RH. Our measured nucleation rate of the  $\text{H}_2\text{O}$ - $\text{H}_2\text{SO}_4$  binary system is qualitatively in agreement with previous experimental

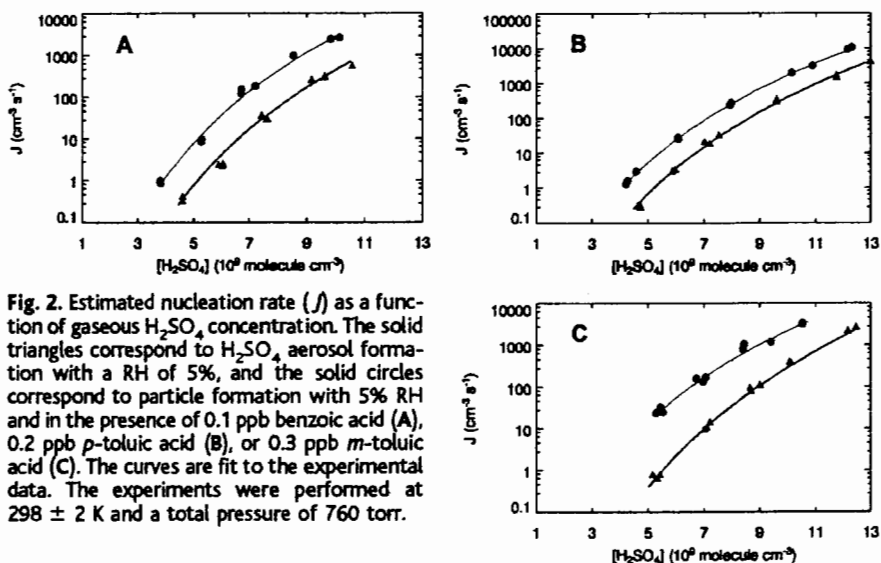


Fig. 2. Estimated nucleation rate ( $J$ ) as a function of gaseous  $\text{H}_2\text{SO}_4$  concentration. The solid triangles correspond to  $\text{H}_2\text{SO}_4$  aerosol formation with a RH of 5%, and the solid circles correspond to particle formation with 5% RH and in the presence of 0.1 ppb benzoic acid (A), 0.2 ppb *p*-toluic acid (B), or 0.3 ppb *m*-toluic acid (C). The curves are fit to the experimental data. The experiments were performed at  $298 \pm 2$  K and a total pressure of 760 torr.

studies (12). Figure 2 shows that the nucleation rate was considerably increased in the presence of the organic acids. The nucleation rate in the presence of 0.1 ppb benzoic acid is about a factor of 8 to 10 higher than that of the  $\text{H}_2\text{O}$ - $\text{H}_2\text{SO}_4$  binary system. Enhanced nucleation rates were also observed for *p*-toluic and *m*-toluic acids (Fig. 2, B and C). The nucleation rate was increased by a factor of 5 to 13 in the presence of 0.2 to 0.3 ppb of the two acids. For RH in the range of 4 to 15%, addition of sub-ppb levels of the aromatic acids consistently led to a larger nucleation rate by a factor of 5 or higher than that of the  $\text{H}_2\text{O}$ - $\text{H}_2\text{SO}_4$  binary system (fig. S2). The partial pressures of the aromatic acids in those experiments were several orders of magnitude smaller than their corresponding equilibrium vapor pressures; that is, the saturation ratio,  $S$  (34), was much smaller than unity. Interestingly, the high nucleation rate was also measured in the absence of water vapor for benzoic acid and *p*-toluic

acid, indicating that binary nucleation of the organic acid-sulfuric acid system is responsible for the enhanced new particle formation (35). Hence, these results suggest a probable interaction between the aromatic acid and sulfuric acid that leads to a reduced (heteromolecular) nucleation barrier. The magnitude of the effect of aromatic acids on  $\text{H}_2\text{SO}_4$  nucleation enhancement appears to be comparable to that previously reported for ammonia at similar  $\text{H}_2\text{SO}_4$  and ammonia additive concentrations and RH (fig. S3).

We also examined (homomolecular) nucleation of the aromatic acids in the absence of sulfuric acid and water. New particle formation was only detected when a substantial saturation ratio was established in the aerosol chamber. The minimum  $S$  required to produce detectable new particles was about 45 for benzoic acid and even higher for *p*-toluic and *m*-toluic acids. Similarly, water was observed to have a negligible influence on the organic particle formation for benzoic and *p*-toluic acids,

**Table 1.** Bonding energies,  $D_0$  (in kcal mol<sup>-1</sup>), of the aromatic acid-sulfuric acid complexes. BA-SA denotes benzoic acid-sulfuric acid complex; PTA-SA, *p*-toluic acid-sulfuric acid complex; and MTA-SA, *m*-toluic acid-sulfuric acid complex. All energies are corrected with the zero-point energies (ZPE). The quantum chemical methods used in the present study are similar to those used by Suh et al. (28).

Complex	$D_0$
BA-SA	19.85*
	17.62†
	18.63‡
	17.84§
PTA-SA	19.99*
MTA-SA	23.72*

\*Determined with B3LYP/6-31G(d,p)//B3LYP/6-31G(d,p). †Determined with CCSD(T)/6-31G(d) + CF/B3LYP/6-31G(d,p). ‡Determined with QCISD(T)/6-31G(d)//MP2(full)/6-31G(d). §Determined with G2(MP2, SVF).

because the two organic acids are insoluble in water and the organic aerosols formed are hydrophobic. In general, particle formation can be qualitatively predicted in terms of fundamental thermodynamic and kinetic principles (36). The spontaneous gas-to-particle conversion process corresponds to a decreased free energy and is thermodynamically favorable but kinetically hindered. During nucleation, a thermodynamically stable cluster or critical embryo is generated before condensation growth of the particle, and this embryo formation involves an energy barrier. Also, condensation growth of nucleated critical embryos will be retarded because of increased activity due to the Kelvin barrier. Hence, particle nucleation and subsequent growth in a single-component system occur only if the system is supersaturated ( $S > 1$ ). It is conceivable that large barriers generally exist for other carboxylic or dicarboxylic acids, as shown in our experiments for the aromatic acids. The atmospheric concentrations of the low-volatility organic compounds are typically at the ppb level or less, even under polluted conditions (1, 2). Although certain dicarboxylic acids do reach their saturation points in the atmosphere (18), the high supersaturation required for homomolecular nucleation likely renders new particle formation from those compounds implausible. Previous smog chamber studies reported homogeneous nucleation from low-volatility organic compounds, but those experiments were carried out with the use of hydrocarbon concentrations that were several orders of magnitude higher than those found under the ambient conditions (25).

To gain an insight into the nature of the interaction between aromatic and sulfuric acids at the molecular level, we performed quantum chemical calculations that show the formation of surprisingly stable aromatic

acid-sulfuric acid complexes (fig. S4). The equilibrium aromatic acid-sulfuric acid structure exhibits a nearly planar eight-membered ring: There are two hydrogen bonds, with the organic acid molecule acting as both a hydrogen bond donor and acceptor. The strength of the hydrogen bonding is reflected by the calculated bond lengths. For the benzoic-sulfuric acid complex, for example, the hydrogen bond is 1.503 Å for C=O...HOS and 1.705 Å for COH...O=S, nearly comparable to weak covalent bonds. The energetics of the complexes was quantified with a series of quantum chemical calculations (Table 1). The bonding energies of the complexes are about 20 kcal mol<sup>-1</sup> for benzoic and *p*-toluic acids and are about 4 kcal mol<sup>-1</sup> higher for *m*-toluic acid. For comparison, the bonding energy is about 10 kcal mol<sup>-1</sup> for the H<sub>2</sub>O-H<sub>2</sub>SO<sub>4</sub> complex (37) and 25 kcal mol<sup>-1</sup> for the H<sub>2</sub>O-H<sub>2</sub>SO<sub>4</sub>-NH<sub>3</sub> system (38). The large stability of the organic acid-sulfuric acid complex implies that the aromatic acid molecule bonds irreversibly to H<sub>2</sub>SO<sub>4</sub> under atmospheric conditions. The complex formation between aromatic and sulfuric acids most likely reduces the barrier in heteromolecular nucleation and helps condensation growth of the nucleated critical embryo by overcoming the Kelvin effect, explaining the enhanced new particle formation observed in our experiments. Additional calculations were performed for glutaric acid, indicating that stable complex formation with sulfuric acid represents a general feature for organic compounds with the carboxylic or dicarboxylic functional group. It is likely, though, that for smaller organic acids the effect on H<sub>2</sub>SO<sub>4</sub> nucleation may be less important than that observed for the aromatic acids (39).

Organic acids have been widely identified as common components in atmospheric particulate matter (18–21). Our experimental study shows that homomolecular nucleation of aromatic acids is unlikely to occur under atmospheric conditions, but that the interaction between aromatic acids and sulfuric acid promotes efficient heteromolecular nucleation. The gas-phase concentration of organic acids is substantially higher than that of gaseous H<sub>2</sub>SO<sub>4</sub> in the atmosphere (18); thus, organic acids can also contribute considerably to the initial growth of the newly nucleated embryos, which is important for subsequent particle growth by adsorption or heterogeneous reactions of other organic vapors. The particle formation mechanism proposed in this study can have major implications for SOA and sulfate aerosol formation in polluted areas, because both organic and sulfuric acids are photochemical degradation products linked to the emissions from the burning of fossil

fuels (1, 2). In particular, new particle formation can occur efficiently over a large portion of northern America, eastern Asia, and some parts of central Europe because of the concurrent anthropogenic VOC and SO<sub>2</sub> emissions in those regions (fig. S5) (40). Our results suggest an alternative cause for efficient aerosol nucleation frequently observed in the polluted atmosphere, in addition to the available theories of water-sulfuric acid-ammonia ternary nucleation and ion-induced nucleation. For example, enhanced new particle formation (with a particle size of 3 to 4 nm) was observed in anthropogenic plumes advecting from Asia, which were identified by elevated CO and SO<sub>2</sub> concentrations (41). The high CO amount was indicative of the abundance of VOCs inside those plumes. It was speculated that a high SO<sub>2</sub> concentration, in conjunction with other unidentified, possibly co-emitted species, was responsible for nucleation. In contrast, the same study revealed that few 3- to 4-nm particles were detected in the clean background and even within a volcanic plume that had a high H<sub>2</sub>SO<sub>4</sub> but low CO concentration. Also, measurements of aerosol hygroscopicity during the 1999 Houston Supersite Project indicated a dominance of the organic matter in the fine particle mode, which could not be explained by the formation of ammonium sulfate (21). Those measurements likely can be explained by the importance of organic acids in particle nucleation and growth in the presence of sulfuric acid, because of the large abundance of both types of acids in urban environments and in the tropospheric boundary layer influenced by anthropogenic pollution.

#### References and Notes

1. B. J. Finlayson-Pitts, J. N. Pitts Jr., *Chemistry of the Upper and Lower Atmosphere: Theory, Experiments, and Applications* (Academic Press, San Diego, CA, 2000).
2. J. H. Seinfeld, S. N. Pandis, *Atmospheric Chemistry and Physics: From Air Pollution to Climate Change* (Wiley, New York, 1998).
3. "Air quality criteria for particulate matter," EPA/600/P-95/001cF, Environmental Protection Agency (1996).
4. R. J. Charlson, J. E. Lovelock, M. O. Andreae, S. G. Warren, *Nature* **326**, 655 (1987).
5. J. T. Houghton et al., Eds., *Climate Change 2001: The Scientific Basis* (Cambridge Univ. Press, Cambridge, 2001).
6. R. E. Orville et al., *Geophys. Res. Lett.* **28**, 2597 (2001).
7. R. Zhang, X. Tie, D. W. Bond, *Proc. Natl. Acad. Sci. U.S.A.* **100**, 1505 (2003).
8. M. Kulmala, *Science* **302**, 1000 (2003).
9. A. Laskin et al., *Science* **301**, 340 (2003); published online 3 July 2003 (10.1126/science.1085374).
10. M. Boy et al., *J. Geophys. Res.* **108**, 10.1029/2003JD003838 (2003).
11. R. J. Weber et al., *Geophys. Res. Lett.* **26**, 307 (1999).
12. S. M. Ball, D. R. Hanson, F. L. Eisele, P. H. McMurry, *J. Geophys. Res.* **104**, 23709 (1999).
13. F. Yu, R. P. Turco, *J. Geophys. Res.* **106**, 4797 (2001).
14. S.-H. Lee et al., *Science* **301**, 1886 (2003).
15. C. D. O'Dowd et al., *Nature* **417**, 632 (2002).
16. C. E. Kolb, *Nature* **417**, 597 (2002).
17. J. J. Martin et al., *J. Geophys. Res.* **102**, 6331 (1997).



18. A. Chebbi, P. Carlier, *Atmos. Environ.* **30**, 4233 (1996).
19. I. G. Kavouras, N. Mihalopoulos, E. G. Stephanou, *Nature* **395**, 683 (1998).
20. C. D. O'Down, P. Aalto, K. Hameri, M. Kulmala, T. Hoffmann, *Nature* **416**, 497 (2002).
21. R. Gasparini, R. Li, D. R. Collins, *Atmos. Environ.*, in press.
22. J. R. Odum, T. P. W. Jungkamp, R. J. Griffin, R. C. Flagan, J. H. Seinfeld, *Science* **276**, 96 (1997).
23. T. Hoffmann, R. Bandur, U. Marggraf, M. Unscheid, *J. Geophys. Res.* **103**, 25569 (1998).
24. J. F. Parkow, *Atmos. Environ.* **28**, 185 (1994).
25. J. R. Odum et al., *Environ. Sci. Technol.* **30**, 2580 (1996).
26. M. Jang, N. M. Czoschke, S. Lee, R. M. Kamens, *Science* **298**, 814 (2002).
27. Information on the experimental apparatus and additional results are available as supporting material on Science Online.
28. I. Suh, R. Zhang, L. T. Molina, M. J. Molina, *J. Am. Chem. Soc.* **125**, 12655 (2003).
29. H. J. L. Forstner, R. C. Flagan, J. H. Seinfeld, *Environ. Sci. Technol.* **31**, 1345 (1997).
30. M. Jang, R. M. Kamens, *Environ. Sci. Technol.* **35**, 3626 (2001).
31. J. Zhao, R. Zhang, E. C. Fortner, S. W. North, *J. Am. Chem. Soc.* **126**, 2686 (2004).
32. R. Zhang, I. Suh, W. Lei, A. D. Clinkenbeard, S. W. North, *J. Geophys. Res.* **105**, 24627 (2000).
33. The nucleation rate is more precisely defined as the rate at which particles of critical size are produced. In this study, we detect only particles larger than 3 nm, and hence the value estimated from the rate of observed particle formation may be smaller than that of cluster formation.
34.  $S$  is defined as the ratio of the partial pressure of the organic acid to its equilibrium vapor pressure at a given temperature. For example, the equilibrium vapor pressures are  $7.0 \times 10^{-3}$  torr for benzoic acid and  $1.9 \times 10^{-3}$  torr for  $p$ -toluic acid at 298 K, corresponding to saturation mixing ratios of 9.2 and 2.5 ppm (parts per million) at 1 atm, respectively.
35. For benzoic and  $p$ -toluic acids and the experimental conditions similar to those in Fig. 2, the measured particle concentrations were slightly higher (by about 10 to 20%) when the water flow in the aerosol chamber was turned off.
36. S. M. Kathmann, G. K. Schenter, B. C. Garrett, *J. Chem. Phys.* **116**, 5046 (2002).
37. S. Re, Y. Osamura, K. Morokuma, *J. Phys. Chem. A* **103**, 3535 (1999).
38. L. J. Larson, A. Largent, F. M. Tao, *J. Phys. Chem. A* **103**, 6786 (1999).
39. The bonding energy of complexes represents one of the factors that determine particle nucleation. Other physicochemical parameters, such as the surface tension and equilibrium vapor pressures of the nucleated single or multicomponent system, also influence new particle formation. For example, our experimental results indicated a negligible effect of glutaric acid ( $C_5H_8O_4$ ) on sulfuric acid nucleation, although the bonding energy of this organic acid with sulfuric acid is  $19.2 \text{ kcal mol}^{-1}$ , comparable to those of the aromatic acid-sulfuric acid complexes.
40. X. Tie et al., *J. Geophys. Res.* **108**, 10.1029/2003JD003659 (2003).
41. R. J. Weber et al., *J. Geophys. Res.* **108**, 10.1029/2002JD003112 (2003).
42. Supported by the U.S. Department of Energy's Atmospheric Chemistry Program (DOE-ACP), Robert A. Welch Foundation (A-1417), and Texas Air Research Center (TACR). The National Center for Atmospheric Research (NCAR) is sponsored by NSF. We acknowledge additional funding for the quantum chemical calculations from the Texas A&M University Supercomputing Facilities and the use of the Laboratory for Molecular Simulations at Texas A&M University. We thank D. Collins for assistance with the application of the differential mobility analyzer and helpful discussions.

## Supporting Online Material

www.sciencemag.org/cgi/content/full/304/5676/1487/DC1  
Figs. S1 to S5  
References

29 December 2003; accepted 3 May 2004

# The Acquisition of Exogenous Algal Symbionts by an Octocoral After Bleaching

Cynthia L. Lewis and Mary Alice Coffroth\*

Episodes of coral bleaching (loss of the symbiotic dinoflagellates) and coral mortality have occurred with increasing frequency over the past two decades. Although some corals recover from bleaching events, the source of the repopulating symbionts is unknown. Here we show that after bleaching, the adult octocoral *Briareum* sp. acquire dinoflagellate symbionts (*Symbiodinium* sp.) from the environment. Uptake of exogenous symbionts provides a mechanism for response to changes in the environment and resilience in the symbiosis.

A diverse array of cnidarians form symbioses with photosynthetic dinoflagellates in the genus *Symbiodinium*. These are true mutualisms, in that the symbiont receives inorganic nutrients from the host and the host obtains translocated photosynthetic products from the symbionts (1–3). Symbiont species within the diverse genus *Symbiodinium* are classified into broad groups or clades (i.e., A, B, C, etc.) on the basis of sequence variation in the small-subunit ribosomal gene (4–6). Most cnidarians preferentially establish and maintain a stable symbiosis with either a specific clade of *Symbiodinium* (7–10) or a subset of the clades that vary with environmental gradients such as light intensity (11–14). Environmental perturbation (e.g., increased temperature, increased solar radiation) can result in the breakdown of the symbiosis (i.e., coral bleaching) that can lead to coral death and subsequent reef degradation. However, some corals recover, and bleaching has been posited as a mechanism whereby hosts acquire new, potentially better-adapted symbionts (4, 15, 16). The source of the symbionts that repopulate a host colony following bleaching is poorly understood (11, 16, 17). Are the symbionts derived from *Symbiodinium* populations remaining in the host at very low levels or from an exogenous pool of potential symbionts (12, 17–19)?

To determine whether adult corals can acquire exogenous symbionts from the environment after a bleaching event, the Caribbean octocoral *Briareum* sp. was bleached and then exposed to exogenous *Symbiodinium* containing rare variants of the chloroplast 23S ribosomal DNA (rDNA) domain V region (cp23S-genotype) (20). The potential symbionts were derived from isoclonal lines of *Symbiodinium* clade B initially isolated from newly settled octocoral polyps (cp23S-genotypes B211 and B223) and an adult col-

ony of *Plexaura flexuosa* (cp23S-genotype B224). Because these variants are not commonly found in adult *Briareum* sp., they served as markers for uptake of exogenous *Symbiodinium*. The markers B211 and B223 cp23S-genotypes were not detected in any of 255 *Briareum* sp. colonies collected from the field; one colony harbored *Symbiodinium* B224 (21); 254 colonies harbored either *Symbiodinium* B178 and/or B184, the cp23S-genotypes typically found in *Briareum* sp. (21). The cp23S-genotypes used as markers in the experiment were not found in *Symbiodinium* isolated from the experimental colonies before or immediately after bleaching (Fig. 1 and Fig. 2A, lanes P and B; table S1).

Cell counts of *Symbiodinium* within *Briareum* colonies immediately after bleaching confirmed a decrease in symbiont density to less than 1% of the original population density (Fig. 2B). Molecular analysis detected residual populations of B178 and/or B184 in 27 of the 39 colonies after bleaching (table S1). During the subsequent 6-week exposure to exogenous symbionts, cell densities within the hosts increased 9- to 31-fold, demonstrating that the symbiosis had begun to reestablish itself (Fig. 2B). Molecular analysis of the symbiont population within these hosts after 3 and 6 weeks of exposure to exogenous *Symbiodinium* cultures identified the marker cp23S-genotypes in 58% and 45% of the samples, respectively (Fig. 2A, lanes R). This demonstrates repopulation of adult *Briareum* by exogenous symbionts and thus establishes a potential exogenous source of symbionts following bleaching events (22). Furthermore, 37% of the colonies that initially harbored *Symbiodinium* B178 and/or B184 contained only *Symbiodinium* with the marker cp23S-genotypes when sampled after 3 weeks of exposure to the exogenous algal source ["switching" sensu (11)]. In contrast, six colonies, which initially contained *Symbiodinium* B178 and/or B184, did not acquire symbionts with the marker cp23S-genotype. This may be due to physiological differences between the different *Symbiodinium* strains

Department of Biological Sciences, State University of New York at Buffalo, Buffalo, NY 14260, USA.

\*To whom correspondence should be addressed. E-mail: coffroth@buffalo.edu





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 18 2004

OFFICE OF  
AIR AND RADIATION

The Honorable Jack Kingston  
Member, United States  
House of Representatives  
One Diamond Causeway, Suite 7  
Savannah, GA 31406

Dear Congressman Kingston:

Thank you for your letter of July 2, 2004, on behalf of your constituent, Mr. [redacted], who makes several important comments about light-duty diesel engine technology. Mr. [redacted] also sent the same letter to Administrator Leavitt and we have replied to Mr. [redacted] directly. A copy of our response letter is enclosed for your information.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Ronna Landy, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-3109.

Sincerely,

A handwritten signature in black ink, which appears to read "J. Holmstead", followed by the word "(for)" in parentheses. The signature is written in a cursive, flowing style.

Jeffrey R. Holmstead  
Assistant Administrator

Enclosure



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**NATIONAL VEHICLE AND FUEL EMISSIONS LABORATORY**  
2565 PLYMOUTH ROAD  
ANN ARBOR, MICHIGAN 48105-2498

AUG - 4 2004

OFFICE OF  
AIR AND RADIATION

Savannah, GA 31411

Dear Mr.

Thank you for your letter of June 29, 2004, to U.S. Environmental Protection Agency (EPA) Administrator Leavitt, in which you make several important comments about light-duty diesel engine technology. Specifically, you encourage EPA to endorse vehicles that operate on low volatility hydrocarbon fuels (e.g., diesel fuel rather than gasoline) and to remove what you perceive to be "roadblocks" to the use of advanced diesel technology in this country to promote energy conservation. You also shared some concerns about public health effects of highly volatile aromatic hydrocarbons in fuels.

First, we agree with you about the potential benefits of the introduction of clean, light-duty diesel cars in this country, in terms of improved fuel efficiency, reduced greenhouse gas emissions, and improved energy security. However, we do not believe there needs to be a trade-off between energy efficiency and environmental protection. Air quality and public health problems related to tailpipe exhaust emissions, particularly for nitrogen oxides and particulate matter, are widespread in this country. To help address these problems, in 1999, EPA established new emission standards for light-duty vehicles (known as the "Tier 2" program). This program will result in vehicles that are 77% - 95% cleaner, compared with model year 2003 and earlier. For the first time, the Tier 2 program established the same set of standards for all light-duty vehicles, regardless of the fuel they use (i.e., gasoline and diesel vehicles must meet the same standards).

We are optimistic about the potential for clean diesel technology to enter the passenger car market and meet the Tier 2 standards. We have made that path easier by requiring clean, ultra-low sulfur diesel fuel in 2006. We have tested several prototype Tier 2 diesel vehicles in our National Vehicle and Fuel Emissions Laboratory that are showing significant progress in meeting the Tier 2 standards, which take effect in the 2007 model year for passenger cars and the 2009 model year for the larger pick-up trucks and sport utility vehicles. Furthermore, through meetings with automobile manufacturers we have seen evidence of the progress they are making toward compliance. To build a market for clean diesel vehicles in this country, the last thing one should suggest is that these vehicles should be dirtier than gasoline vehicles. The old reputation

of diesel being dirty, smelly, and having poor performance is the main hurdle automakers must overcome, not EPA clean air standards.

Finally, allow me to address your comments with regard to benzene and highly volatile aromatic hydrocarbons in fuels. EPA has regulations that limit toxic emissions from gasoline. We are currently considering additional controls for mobile source air toxics that are emitted from both gasoline and diesel-fueled vehicles.

Again, thank you for your letter. I appreciate the opportunity to be of service and trust the information provided is helpful.

Sincerely,

A handwritten signature in dark ink, appearing to read "Chester J. France", with a stylized flourish at the end.

Chester J. France, Director  
Assessment and Standards Division

AL-0400497  
Congress of the United States  
Washington, DC 20515

March 29, 2004

Mr. Michael Leavitt  
Administrator  
Environmental Protection Agency  
Ariel Rios Building RM 3000  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Re: Designation Houston County, Georgia as Non-attainment for the 8-hour Ozone NAAQS

Dear Administrator Leavitt:

We are writing to inform you of an important issue concerning the regulatory process of ozone non-attainment designation and the impact that this mistaken action could have on the Middle Georgia Region. We have reviewed correspondence between US EPA and the State of Georgia Environmental Protection Division (EPD) about the potential ozone non-attainment designations for four counties. While we stand by the State's previous comments and analysis, we believe there is important additional information relating to the non-attainment designation specific to Houston County.

The Chairman of the Houston County Commission met with your staff on March 11, 2004. The following information was well received, and we ask your special attention to the following:

1. The analysis of the boundary line guidance criteria to determine the Houston contribution to the Bibb County non-attainment situation, and the precedence of a similar EPA decision in Tuscaloosa, Alabama.
2. The unequivocal commitment of the senior elected leadership in Houston County to the attainment of clean air standards in the region through the Middle Georgia Clean Air Coalition (MGCAC).
3. The unique economic impact a non-attainment designation would have on Base Realignment and Closure Commission (BRAC) decisions in 2005 and consequently to the economy of Georgia. Robins Air Force Base, in Houston County, generates an economy in excess of \$ 4 Billion per year for Middle Georgia.

We have learned that Houston County used EPA's boundary line guidance criteria to determine the County's contribution to the non-attainment situation in Bibb County. Houston County should not be considered as a contributor to the ozone issues in Bibb County for the following reasons:

- Bibb County is the only location of an ozone monitor in the Macon Consolidated Metropolitan Statistical Area (CMSA). Houston County, which is directly south of Bibb County, comprises only about 6.8% of the airshed's point source nitrogen oxides (NOx).

In fact, the NOx budget for the Macon CMSA is predominantly dominated by a single coal-burning power plant northwest of Macon, which contributes 80.6% of the total point source NOx in the Macon CMSA airshed.

- Meteorology validates Houston County's exclusion from the non-attainment category. An analysis of ozone exceedance events at the Bibb County monitor have been characterized as occurring under westerly and northwesterly airflow. Again, Houston County is directly south of Bibb County. Monitored exceedances have not been associated with a southerly airflow, validating the claim that Houston County is not a significant source of emissions to Bibb County.
- The level of out-commuting in Houston County is low. In 2000, 79.7% of the people working in Houston County (39,954 people) also live there. Of the workers in Bibb County, only approximately ten percent were commuting in from Houston (8,570 people).

Based on the above actions and analyses, we believe that Houston County should be excluded from the non-attainment classification. This action would be consistent with other EPA actions when meteorological data were used to separate counties with a potential designation. A similar analysis in the Tuscaloosa, Alabama, area showed that on the days of measured non-attainment in neighboring Jefferson County, prevailing winds were not from the direction of Tuscaloosa County. This analysis provided EPA with the data to concur with the State of Alabama that Tuscaloosa County did not contribute to the non-attainment in Jefferson County.

The communities of Middle Georgia understand that they are all connected, not only economically, but also environmentally. They are clearly aware that science points to a variety of contributors to Middle Georgia's ozone situation, but only aggressive leadership and cohesive community action will achieve and maintain attainment.

To accomplish that objective, the Macon CMSA communities have created the Middle Georgia Clean Air Coalition (MGCAC), composed of elected officials, non-governmental organizations, and industry. Houston County is an aggressive leader of this regional approach and a key member in the Coalition. In fact, the County and its municipalities were the first to pass a resolution creating the MGCAC. Additionally, the Houston County Commission Chairman has volunteered to chair the MGCAC until official officers are formally elected and Houston County will continue to be a driving force behind its actions. Additionally, the level of involvement by the Georgia EPD, Department of Transportation, the Congressional Delegation, and the Office of the Governor in the creation of the MGCAC is a testament to the level and strength of the community commitment to this effort.

The broad goals of the MGCAC are to reduce NOx and volatile organic carbon (VOC) emissions; to protect the region's public health; and to exert leadership in environmental sustainability. Success lies in planning for the future, and taking action now. Consequently, the MGCAC, at only its second meeting, agreed to immediately pursue the following six specific emission reduction initiatives, and they formed a committee of volunteers for each strategy to guide implementation:

- Truck Stop Electrification: Install electrification at three regional truck stops to prevent long-term engine idling.
- Commuter Strategies: Develop a suite of commuter strategies that regional employers can participate in.
- Open Burning Ban: Implement burn bans during the ozone season.
- Alternatively Fueled School Bus Fleets: Purchase alternatively fueled school buses for the seven Counties.
- Public Education and Awareness: In coordination with previous efforts, develop a clean air public education and awareness campaign.
- Strategy for the Future: Develop a strategy that will examine the region's growth and formulate ways to reduce future NOx and VOC emissions.

We want to be clear: Houston County is committed to the Middle Georgia Clean Air Coalition. An exclusion of Houston County from the non-attainment category will have no bearing on their leadership role in the Middle Georgia Clean Air Coalition. Houston County is fully committed to air quality in the Middle Georgia region regardless of designation.

Their commitment to this regional strategy is linked to the County's role as home to Robins Air Force Base. As you know, Robins AFB is in the process of being reviewed by the Department of Defense for the 2005 BRAC round. Robins AFB has been an environmental leader in the community and has won many pollution prevention awards. They have an approved Clean Air Act Title V operating permit and operate daily with VOC and NOx emission levels well within permitted limits. However, these limits were developed under a Prevention of Significant Deterioration (PSD) regulatory regime, appropriate for attainment areas. While Robins AFB has and will continue to be a model of environmental leadership, simply being located in a county that has been designated non-attainment can be problematic.

Air quality "non-attainment" status is the single largest threat to Robins for BRAC 2005. Non-attainment status will severely limit the propensity of DOD planners to assign additional missions and associated personnel to an area already in air quality non-attainment status. Such status and associated limitations can be perceived as "encroachment" in the BRAC process and can become part of the rationale for choosing not to realign operations to the base, or even worse, closure of the installation.

DOD leaders have specifically highlighted the critical role air quality plays in the community's capacity to take on new missions. In testimony to the Committee on the Environment and Public Works, United States Senate, July 9, 2002, the Vice Chief of Staff of the Air Force stated in part " . . . Air quality pressures generally affect operations at our installations more than on our ranges, but they potentially limit our basing options for force realignments and weapon system bed downs...." An inability to accept new missions and grow makes Robins AFB vulnerable during BRAC. Robins AFB is the leading employer in Middle Georgia and contributes an estimated \$4 billion to the regional and state economy. A base closure presents serious hardships for the regional communities.

In summary, what distinguishes Houston County from other areas of the nation is that while we are not contributors to the measured non-attainment in Bibb County, we are committed

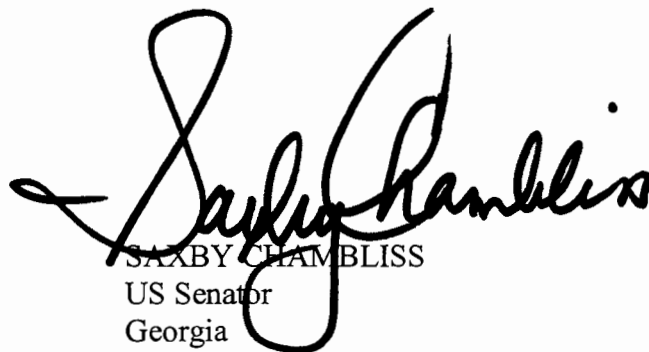
to being part of the solution to ensure that the Middle Georgia region continues to have a healthy economy and environment.

Thank you for your immediate attention to this concern. We would like to meet with you as soon as convenient to discuss this issue in further detail. Please let us know if you need additional information or clarification. Please coordinate with Chris Payne in Mr. Kingston's office at (202) 225-0119.

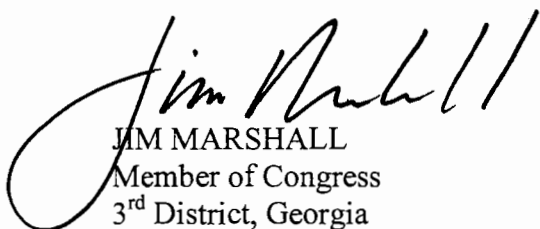
Sincerely,



JACK KINGSTON  
Member of Congress  
1<sup>st</sup> District, Georgia



SAXBY CHAMBLISS  
US Senator  
Georgia



JIM MARSHALL  
Member of Congress  
3<sup>rd</sup> District, Georgia



ZELL MILLER  
US Senator  
Georgia

Attachments:

1. Middle Georgia Clean Air Coalition Resolution
2. 11 Boundary Line Guidance Criteria Analyses for Houston County Georgia

A RESOLUTION

**WHEREAS**, on July 15, 2003, the Georgia EPD made recommendations to the United States EPA concerning county's in middle Georgia to be designated nonattainment for new ozone standards; and

**WHEREAS**, Houston County was not included in the EPD's recommendation to be designated nonattainment under the new ozone standards; and

**WHEREAS**, in December of 2003, the United States EPA notified Georgia EPD of its intent to designate Bibb, Houston and Monroe Counties as nonattainment under the new ozone standards; and

**WHEREAS**, the Houston County Board of Commissioners concurs with Bibb County's nonattainment designation, but does not concur with the inclusion of Houston and Monroe County in this designation; and

**WHEREAS**, the Houston County Board of Commissioners are proud of our county, its people, its resources, its quality of life and for Georgia's largest employer, Robins Air Force Base, located in Houston County; and

**WHEREAS**, the members of the Houston County Board of Commissioners pledge to work with and support the efforts of the 21st Century Partnership, the Middle Georgia Clean Air Coalition, Georgia Tech and the Georgia EPD in crafting a coordinated response complete with new data for consideration along with the development of an aggressive strategy to address ozone and particulate matter in Houston County and middle Georgia that will be technically effective, accurate, timely and be implemented at the local level to improve air quality in middle Georgia; and

**WHEREAS**, the Houston County Board of Commissioners embrace the goals of the Clean Air Act, understand air quality is a regional issue and are committed to improving the air quality in middle Georgia.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF HOUSTON COUNTY** that the undersigned members of this body resolve to assist in the creation of the Middle Georgia Clean Air Coalition to take necessary actions to help Houston County and the middle Georgia area reach National Ambient Air Quality Standards attainment in the shortest time possible.

This 5th day of February 2004.

Signed \_\_\_\_\_  
Ned M. Sanders, Chairman

Signed \_\_\_\_\_



Tom McMichael, Commissioner

Signed \_\_\_\_\_  
Larry Thomson, Commissioner

Signed \_\_\_\_\_  
Gail Robinson, Commissioner

Signed \_\_\_\_\_  
Jay Walker, Commissioner

## Attachment 2

### 11 Boundary Line Guidance Criteria Analyses for Houston County Georgia

#### ***EPA Factor #1: Comparison of Emissions and Air Quality in Adjacent Areas***

The NOx budget for the Macon CMSA is dominated by a single coal-burning power plant northwest of Macon, contributing 80.6% of the total point source NOx in the Macon CMSA airshed. The plant has voluntarily switched its coal to Powder River basin coal and is using techniques to further reduce emissions. Houston County, directly south of Bibb County and Macon, comprises only approximately 6.8% of the airshed's point source NOx.

#### **EPA Factor #2: Population Density and Degree of Urbanization**

In 2000, Bibb County's population density (616 persons/mile<sup>2</sup>) was more than twice that of Houston County (294 persons/mile<sup>2</sup>).

#### **EPA Factor #3: Monitoring Data Representing Ozone Concentrations**

Bibb County is the only location of an ozone monitor in the Macon CMSA. The three-year average of the 4th maximum ozone level is used to designate attainment status. In 2003, the value was 0.087 ppm, exceeding the standard of 0.085 ppm by 0.002 ppm.

#### ***EPA Factor #4: Location of Emission Sources***

The NOx budget for the Macon CMSA is dominated by a single coal-burning power plant northwest of Macon, contributing 80.6% of the total point source NOx in the Macon C/MSA airshed. The plant has voluntarily switched its coal to Powder River basin coal and is using techniques to further reduce emissions. Houston County, directly South of Bibb County and Macon, comprises only approximately 6.8% of the airshed's point source NOx.

#### ***EPA Factor #5: Traffic and Commuting Patterns***

The level of out commuting in Houston County is low. In 2000, 79.7% of the people working in Houston County (39,954 people) also live there. Of the workers in Bibb County, only approximately 10 percent were commuting in from Houston (8,570 people).

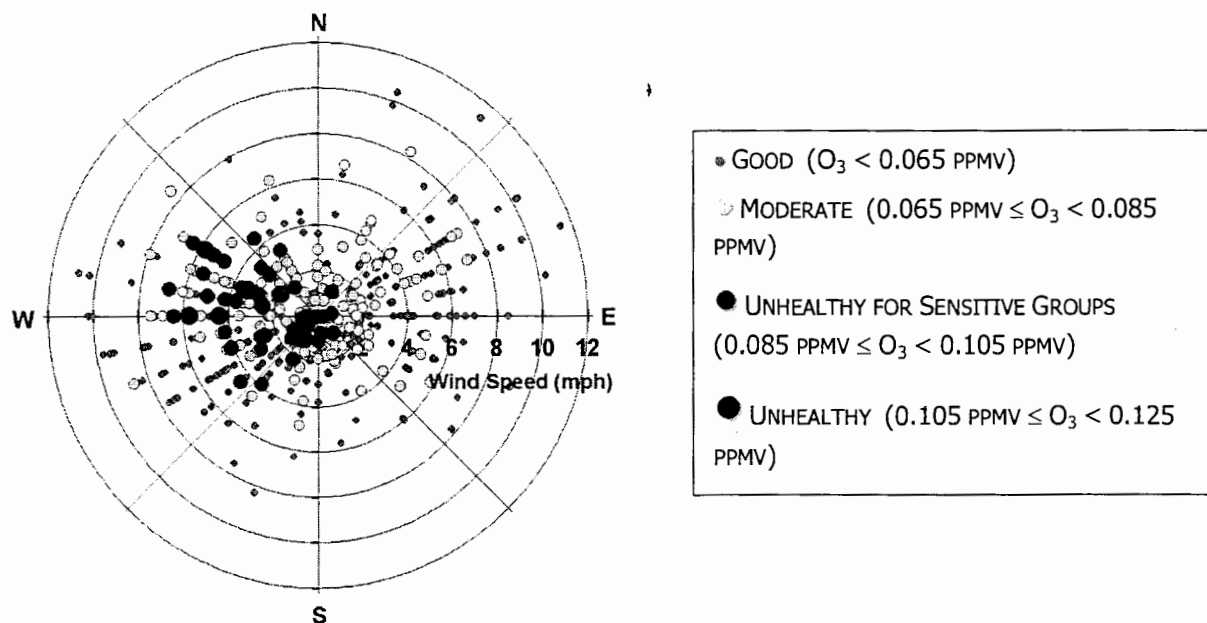
#### ***EPA Factor #6: Expected Growth***

Monroe, Peach, and Houston counties all have high rates of growth. From 2000 to 2010 the projected change in population is 13.3%, 15.6% and 16.5% respectively.

#### ***EPA Factor #7: Meteorology***

An analysis of the ozone exceedance events at the Bibb County monitor have been characterized as occurring under westerly and northwesterly airflow. Houston County is directly south of Bibb County. Monitored exceedance events have not been associated with a southerly airflow, which validates the claim that Houston County is not a significant source of emissions to Bibb County. See wind rose below.

A similar analysis in the Tuscaloosa, AL area showed that prevailing winds on a majority of the days that measured non-attainment in neighboring Jefferson County, were not from the Tuscaloosa direction, which provided EPA with some of the data necessary to concur with Alabama that Tuscaloosa County does not contribute to the non-attainment in Jefferson County.



***Peak daily 8-hour average ozone concentrations as a function of local resultant wind 1997-1999. Chang, M., et.al. 2001. The Fall Line Air Quality Study. Phase I Pilot Study.***

#### ***EPA Factor # 8: Level of Emission Control***

Georgia Power Plant Scherer has voluntarily switched its coal to Powder River basin coal (reduction estimate of 28.07 tpd NOx) and is using the over fired air technique (reduction estimate of 42.15 tpd NOx) to reduce emissions. (Plant Scherer contributes an estimated 113.41 tpd NOx).

Houston County point sources operate under Title V permits.

Both the Arkwright and Brown and Williamson point sources in Bibb County have either closed or are closing, which potentially will yield an estimated reduction of 11 tpd NOx.

***EPA Factor #9: Geography/Topography of Region***

Geography and topography do not play a major role in the air quality of the Macon region.

***EPA Factor #10: Jurisdictional Boundaries***

The GA EDP holds the authority to enforce regulatory measures in all counties surrounding a non-attainment area no matter their designation.

***EPA Factor #11: Regional Emission Reductions***

Regional emissions reductions from the Regional NOx SIP Call, metro-Atlanta 1-hour ozone attainment plan, and other state and federal rules being implemented now will have a significant impact in the near-term on the Macon area, as well as other parts of the southeast.

Regional emissions reductions are starting to be seen in ozone monitors and can be further predicted with additional air quality modeling. Modeling by GA Tech researchers show that the Macon region will be in attainment by 2007 with efforts already in place to reduce emissions.

 **Lora Strine**

05/14/04 03:31 PM

To: Cassandra Eades/DC/USEPA/US@EPA  
cc: Peter Pagano/DC/USEPA/US@EPA  
Subject: close out letters

Sandy - can you please close out the following letters? Please note they have been answered with a phone call. Thanks, Lora

AL 0400121 - Deal

AL 0400497 - Kingston

AL - 0400549 - Fossella

AL - 0400220 - Miller

---

Lora Strine  
Congressional Liaison  
202-564-3689

JACK KINGSTON  
1st District, Georgia

WASHINGTON OFFICE  
2242 Rayburn House Office Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2268 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX

AL-0400131



**Congress of the United States**  
**House of Representatives**

February 3, 2004

Committee On Appropriations  
Vice Chair, Republican Conference

SAVANNAH OFFICE  
One Diamond Causeway  
Suite 7  
Savannah, GA 31406  
(912) 352-0101  
(912) 352-0105 FAX

BAXLEY OFFICE  
P.O. Box 40  
Baxley, GA 31515  
(912) 367-7403  
(912) 367-7404 FAX

WARNER ROBINS OFFICE  
P.O. Box 9348  
Warner Robins, GA 31095  
(478) 923-6887  
(478) 923-4734 FAX

Mr. Jeffrey R. Holmstead  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460

Dear Mr. Holmstead:

I am writing to you regarding certain difficulties with the new gasoline sulfur regulations that are adversely affecting a constituent of mine, Colonial Oil of Savannah Georgia.

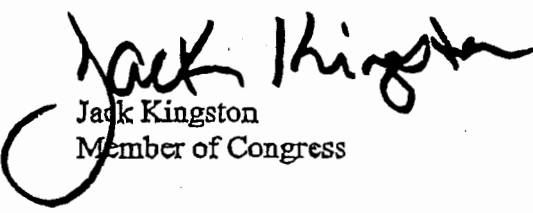
Colonial Oil is an independent importer and distributor of gasoline in the Southeast in competition with major refining companies. New EPA gasoline regulations are intended to reduce the sulfur content gasoline, an objective that I support. However, I understand that certain provisions of this regulation result in inequitable competitive positions for importers relative to refiner/importers.

I understand that independent importers such as Colonial Oil are adversely affected by the allotments provision of the gasoline sulfur Averaging, Banking, and Trading program which does not likewise affect refiner/importers. Importers are not able to recover the cost of allotments from the market without losing competitive position and market share. I also understand that the allotments provision did not appear in the Notice Of Proposed Rulemaking and therefore may not have benefited from sufficient public review and comment process.

I would like to meet with you to review this situation and to discuss possible solutions to correct the problem.

If there are any questions, please contact Ms. Heather McNatt with my office at 202-225-5831.

Sincerely,

  
Jack Kingston  
Member of Congress

JK:hbm



**Glenda Colvin**

02/17/04 09:26 AM

To: Clara Jones/DC/USEPA/US@EPA  
cc: Cassaundra Eades/DC/USEPA/US@EPA  
Subject: AL-0400131(kingston)

Clara,

A meeting has been scheduled with Congressman Kingston and Jeff Holmstead, AA for OAR. The meeting has been scheduled for Feb. 26. Please close the subject file. See the attached e-mail from Don Zinger. Thanks.

Glenda K. Colvin  
OAR Liaison Specialist  
Office of Air and Radiation  
U.S. Environmental Protection Agency  
202/564-7419  
Fax #: 202/501-0600

----- Forwarded by Glenda Colvin/DC/USEPA/US on 02/17/2004 09:17 AM -----



**Don Zinger**

02/12/2004 04:10 PM

To: Glenda Colvin/DC/USEPA/US@EPA  
cc: Sabrina Hamilton/DC/USEPA/US@EPA, Karl  
Simon/DC/USEPA/US@EPA, Lora Strine/DC/USEPA/US@EPA  
Subject: AL-0400131

Glenda,

This control is from Congr. Kingston requesting a meeting with Jeff on a fuel issue on behalf of his constituent, Colonial Oil. Lora Strine has now set up this meeting for Feb. 26. So, we should close out this control since the matter will be addressed in a meeting. We don't need an interim response since the Congressman's office has accepted the meeting in a phone call with Lora. Thanks.

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
2242 Hayburn House Office Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX

AL-0400208



**Congress of the United States**  
**House of Representatives**

February 6, 2004

**Committee On Appropriations**  
**Vice Chair, Republican Conference**

SAVANNAH OFFICE  
One Diamond Causeway  
Suite 7  
Savannah, GA 31406  
(912) 352-0101  
(912) 352-0105 FAX

BAXLEY OFFICE  
P.O. Box 40  
Baxley, GA 31515  
(912) 367-7403  
(912) 367-7404 FAX

WARNER ROBINS OFFICE  
P.O. Box 9348  
Warner Robins, GA 31095

Mr. Edward Krenic  
Associate Administrator of Congressional and Intergovernmental  
Affairs  
Environmental Protection Agency  
1200 Pennsylvania Ave. NW Room 3428 ARN  
Washington, DC 20460

Dear Mr. Krenic:

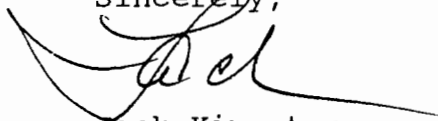
One of my constituents, Mr. Robert H. Demere, Jr., has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by Mr. Demere, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Trish DePriest. She can be reached at (912) 352-0101.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

  
Jack Kingston  
Member of Congress

Please reply to:

Congressman Jack Kingston  
One Diamond Causeway  
#7  
Savannah, Georgia 31406  
ATTN: Trish DePriest



# COLONIAL GROUP, INC.

FEB 05 RECD

PHONE 912-236-1331

101 NORTH LATHROP AVENUE  
POST OFFICE BOX 576  
SAVANNAH, GEORGIA 31402-0576

FAX 912-235-3863

1-29-04

## FAX COVER SHEET

DATE: January 29, 2004  
TO: Jack Kingston  
FAX #: (202) 226-2269  
FROM: Robert H. Demere, Jr.  
PAGES: 9 including cover sheet

Please find enclosed information from Robert H. Demere, Jr.  
regarding the federal gasoline sulfur regulation.

Regards,

Annette Youmans  
Assistant to Robert H. Demere, Jr.



## COLONIAL GROUP, INC.

PHONE 912-236-1331

101 NORTH LATHROP AVENUE  
POST OFFICE BOX 576  
SAVANNAH, GEORGIA 31402-0576

FAX 912-235-3863

January 29, 2004

The Honorable Jack Kingston  
Representative in Congress  
1<sup>st</sup> Congressional District of Georgia  
2242 Rayburn HOB  
Washington, DC 20515

*Via Fedex and Fax (202-226-2269)*

Dear Jack,

Thank you for taking time out of your busy schedule to speak with me the other day. To follow up on our conversation, please find below further information regarding my concern over the new gasoline sulfur regulation.

Colonial Oil operates a large petroleum products terminal in Savannah and is a major wholesale supplier of gasoline to the Southeastern U.S., including Georgia, Florida, and South Carolina. Our business has prospered in the past due to our ability to import competitively priced gasoline. We have successfully competed for years against multi-national oil refining/importing companies in that regard. However, the recently implemented federal gasoline sulfur regulation includes a provision that unnecessarily threatens the viability of our business. While we support the need to reduce sulfur in gasoline, this provision damages the competitive position of our company and other importers relative to refining/importing companies.

The difficulty arises in the regulations at 40 CFR §80.275, which is intended to ease the transition to lower sulfur gasoline in 2004 and 2005 through the averaging, banking, and trading ("ABT") of sulfur allotments and credits. The allotments provision appeared in the final regulation, but not in the proposal, such that it did not receive public review and comment. The ABT program is very complex but its consequences can be summarized as follows:

- Importers were excluded from banking allotments in 2003, and so were not able to protect their interests by reducing sulfur early, as were refiners.
- Importers who need allotments to comply in 2004 must purchase them from the refiners with whom they compete for market share.
- The cost of allotments does not affect the sulfur content of imported gasoline, but has a great affect on who imports the gasoline.

- The regulatory formula for generating allotments in 2003 results in a cost that is eight to ten times the refiners' cost of desulfurization.
- 2003 allotments have not been sold to our knowledge. Credits, made according to a different formula that better reflects the actual costs of desulfurization, are widely traded at prices of \$8 to \$1, but may not be used during 2004.
- The cost of allotments is as much as 2 ¢ per gallon for importers, while a refiner's cost for the same cargo is only 0.2 ¢ per gallon. This cost cannot be recovered in a market where the typical margin is less than 1¢ per gallon.
- Refiners can offset the sulfur in their imported cargoes by reducing the sulfur at their refineries slightly, at a cost that is equal to the incremental cost of desulfurization, or about 0.2 ¢ per gallon.
- We anticipate that allotments will be more affordable in late 2004, but we are reluctant to gamble this prediction against potential fines in excess of \$11 million

Unless relief is granted, our market share will erode and we may be forced to exit the market. At the same time, the motorist will be paying higher gasoline prices, but the sulfur level of gasoline is not being benefited.

Action we have taken:

- Tom Hawthorne – advised EPA May 2003 of high cost allotments
- Meeting December 4, 2003 Ann Harbor, MI with EPA (Details below)
- Letter to EPA from Independent Fuel Terminal Operators Association (letter attached)

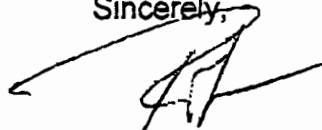
Our consultant, Tom Hawthorne, briefed the Agency about the problem with the high cost of allotments in May 2003. We and other importers met with EPA's Office of Air and Radiation on December 4, 2003 to review this problem and to discuss its affect on the viability of importers. The meeting was chaired by EPA's Mary Manners and a listing of the participants is attached. It was apparent at the meeting that EPA was not acquainted with the importing business and how the high cost of allotments would adversely affect importers. We proposed as a possible solution that importers be allowed to use credits rather than allotments in 2004. This is the same relief already granted to ten small refiners and to five refiners who petitioned under the regulatory provision for economic hardship. This solution would restore the ability of importers to compete with refiners while protecting the objectives of the regulation.

Since our meeting December 4<sup>th</sup>, we understand that Ms. Manners has briefed her superior, Chester France. The issue was then passed from Ms. Manners to Tad Wysor around December 29 for follow-up. Mr. Wysor subsequently advised our consultant that Mr. France had met with his superior, Ms. Margo Oge, and was disinclined to grant relief. At this point we do not know Mr. France's rationale and are presently seeking an opportunity to discuss the issue with him.

We appreciate your interest in our dilemma, and request your assistance to persuade the Agency of the need to grant relief. An executed Privacy Act Release is attached.

If there are any questions, please call Tim Conklin at 832-476-3014.

Sincerely,

A handwritten signature in black ink, appearing to be 'R. Demere, Jr.', with a long horizontal stroke extending to the left.

Robert H. Demere, Jr.  
President

**PARTICIPANTS LISTING  
DECEMBER 4, 2003 MEETING  
AT ANN ARBOR, MICHIGAN**

**EPA'S OFFICE OF AIR AND RADIATION  
REGARDING IMPORTERS USE OF GASOLINE SULFUR ALLOTMENTS**

**In Attendance:**

		<b><u>Phone</u></b>
Mary Manners	EPA	734-214-4873
Tad Wysor	EPA	734-214-4332
Paul Machielle	EPA	734-214-4264
Ken Henderson	EPA	734-214-4460
Tim Conklin	Colonial Oil	832-476-3014
Jim Goughary	Trammo Petroleum	713-289-8915
Tom Hawthorne	L. T. Hawthorne & Co. (consultant)	828-264-7428

**By Telephone:**

Erv Pickell	EPA	303-236-9506
Marilyn Bennett	EPA	202-564-8989
Chris McKenna	EPA	202-343-9037
Joanne Shore	U.S. Department of Energy	202-586-4677
Tom White	U.S. Department of Energy	
Norberto Sepulveda	Caribbean Petroleum Corporation	
Wajid Shaik	Petrobras America	
Alberto Feilhaber	Astra Oil	

**Note: The above listing may be incomplete, to the extent that participants may not have signed the attendance sheet.**

## INDEPENDENT FUEL TERMINAL OPERATORS ASSOCIATION

Suite 700

1200 19<sup>th</sup> Street, N.W.

Washington, D.C. 20036-2412

(202) 861-3900

## PRESIDENT:

RICHARD B. SLIFKA  
GLOBAL COMPANIES LLC  
WALTHAM, MASSACHUSETTS

## VICE PRESIDENTS:

ROBERT H. DEMERE, JR.  
COLONIAL OIL INDUSTRIES, INC.  
SAVANNAH, GEORGIA

CARLA L. ROMITA  
CASTLE OIL CORPORATION  
HARRISON, NEW YORK

## SECRETARY-TREASURER:

FRANCIS A. BROWN  
COLONIAL OIL INDUSTRIES, INC.  
SAVANNAH, GEORGIA

## REPRESENTING TERMINAL

## OPERATORS IN:

CONNECTICUT  
DELAWARE  
FLORIDA  
GEORGIA  
MAINE  
MARYLAND  
MASSACHUSETTS  
NEW HAMPSHIRE  
NEW JERSEY  
NEW YORK  
NORTH CAROLINA  
PENNSYLVANIA  
RHODE ISLAND  
SOUTH CAROLINA  
VERMONT  
VIRGINIA  
WASHINGTON, D.C.

December 23, 2003

Ms. Margo T. Oge  
Director  
Office of Transportation and Air Quality  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Re: Importers Disadvantaged  
Under Gasoline Sulfur Rule

Dear Ms. Oge:

The Independent Fuel Terminal Operators Association ("IFTOA") is writing to express its concern about the imminent implementation of the Averaging, Banking and Trading ("ABT") provisions of the Gasoline Sulfur Rule, 40 CFR Part 80. Members believe that an unintended consequence of the ABT system could, in a relatively short time - a matter of a few months - significantly weaken or even destroy the ability of independent gasoline importers to compete in the current market.

IFTOA is an organization of independent petroleum marketers that import and sell gasoline primarily on the East Coast. These companies import large volumes of gasoline but operate on low margins. Their pricing exerts downward pressure ensuring greater competition in the market for consumers.

As importers they are subject to the per gallon sulfur cap, the corporate pool average requirements and the individual refinery/import facility gasoline sulfur standard. The rule further provides flexibility within the

- 2 -

system by allowing the trading of allotments and credits to assist companies in meeting their obligations. However, as the effective date of the rule approaches, it has become clear that the generation and trading of allotments for use in meeting the "corporate pool average" requirements may not operate as intended, and indeed could cause serious economic harm to independent importers.

Under the regulations, only crude oil refiners are permitted to generate allotments that may be used to meet the corporate pool average requirement. Refiners are permitted to trade the allotments to other refiners or importers. In fact, when the final rule was promulgated both the EPA and industry assumed that such allotments, generated before 2004, would be freely traded. However, we have not been able to confirm any trades have taken place. While surveying refiners in late November 2003, we've found a great reluctance to offer allotments and even if offered were on a "best efforts" basis again leaving the importer in jeopardy. However, it now appears that only a handful of allotments have been sold, and those few have been very expensive.

Without access to allotments, independent importers will have great difficulty meeting the corporate pool average requirement. They will be unable to bid for cargoes with sulfur standards exceeding 120 parts per million. All of the anticipated flexibility of the program will have been lost.

Moreover, even if a few allotments become available, the cost now anticipated could add 2 to 3 cents a gallon to the price of the imported gasoline. Such an increase would make the independent importer non-competitive particularly with major integrated oil companies that refine and import gasoline or gtab. Indeed, we have learned that independent importers are already experiencing problems with the acquisition of cargoes for the second half of January 2004.

EPA's rule fully recognizes the importance of maintaining a competitive gasoline market and not permitting the regulations to jeopardize the viability of any sector of the market. Therefore, EPA provides small, independent refiners with additional time in which to comply with the desired sulfur standards. Some similar assistance is needed for independent gasoline importers.

Accordingly, the Independent Fuel Terminal Operators Association recommends that for a temporary period, perhaps six to eight months, the EPA permit importers to use credits

- 3 -

to meet their corporate pool average requirement. In this manner, importers would not be reliant on refiners and could continue to compete with them in the marketplace. Further, because the Gasoline Sulfur Rules goes into effect on January 1, 2004, there, of course, is no time available for any type of regulatory amendment. Therefore, while the Agency reviews this problem and develops a response, the Association requests that EPA exercise enforcement discretion with respect to importers' compliance with the corporate pool average gasoline sulfur standard.

We very much appreciate you and your staff's attention to this important matter. The Association's members and other importers are most willing to work with you to eliminate unintended and unforeseen competitive disadvantages that are likely to result from the ABT provisions.

Thank you for your consideration.

Sincerely,

Andrea Grant  
Counsel

## Congressman Jack Kingston - GA/01

### Constituent Privacy Act Form

Please Print Clearly-Check All Spellings

Name: Colonial Group, Inc. - Robert H. Demere, Jr., President

Address: 101 North Lathrop Avenue

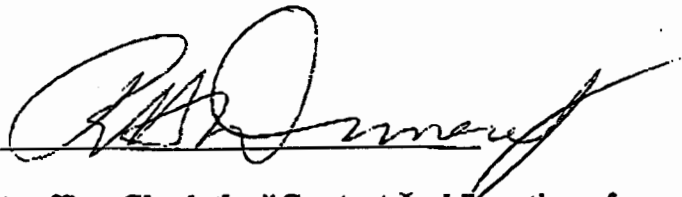
City/State/Zip: Savannah, Georgia 31415

SSN or Agency Number: \_\_\_\_\_ Phone: (912) 236-1331

Nature of Request: See attached letter.

Pursuant to public law, 93-579, I hereby grant Congressman Jack Kingston and his staff access to my records so that they may assist me with my request.

Date: January 29, 2004 Signature: \_\_\_\_\_



Please return form to the appropriate office. Check the "Contact Jack" section of our website to find the office that serves you.





**Lora Strine**

02/26/04 03:02 PM

To: Sabrina Hamilton/DC/USEPA/US@EPA

cc: Cassaundra Eades/DC/USEPA/US@EPA, Clara  
Jones/DC/USEPA/US@EPA, Glenda Colvin/DC/USEPA/US@EPA,  
Peter Pagano/DC/USEPA/US@EPA

Subject: Re: AL-0400208 -- Congressman Jack Kingston

thank you, this letter should be closed with a note that indicates we had a meeting with the  
Congressman this morning. Thank you - Lora

---

Lora Strine  
Congressional Liaison  
202-564-3689  
Sabrina Hamilton



**Sabrina Hamilton**

02/26/04 03:01 PM

To: Lora Strine/DC/USEPA/US@EPA

cc: Cassaundra Eades/DC/USEPA/US@EPA, Clara  
Jones/DC/USEPA/US@EPA, Glenda Colvin/DC/USEPA/US@EPA,  
Peter Pagano/DC/USEPA/US@EPA

Subject: Re: AL-0400208 -- Congressman Jack Kingston

Hi Lora,

Karl Simon and Rhonda White told me that you were the one that set up the  
meeting w/Jeff Holmstead and Congressman Kingston. As you know, the meeting  
took place this morning around 11:15 am and was successful. Would it be  
possible to close this assignment due to the meeting w/Congressman Kingston?  
Please advise. Thanks

Sabrina Hamilton  
Information Management Specialist  
Office of Transportation and Air Quality  
U.S. Environmental Protection Agency (EPA)  
1200 Pennsylvania Avenue, N.W. (6401-A)  
Washington, D.C. 20460  
Tel: (202) 564-1083  
Fax: (202) 564-1686

..... Forwarded by Sabrina Hamilton/DC/USEPA/US on 02/26/2004 02:48 PM .....



**Sabrina Hamilton**

02/24/2004 10:47 AM

To: Peter Pagano/DC/USEPA/US@EPA

cc: Glenda Colvin/DC/USEPA/US@EPA, Cassaundra  
Eades/DC/USEPA/US@EPA, Clara Jones/DC/USEPA/US@EPA,  
Chitra Kumar/DC/USEPA/US@EPA

Subject: Re: AL-0400208

Peter,

Jeff Holmstead has a meeting scheduled for Thursday, February 26th with  
Congressman Jack Kingston. Management feels that a written response is not

necessary since a meeting is taking place. Would it be possible to close this assignment for that reason? Please advise. Thanks

Sabrina Hamilton  
Information Management Specialist  
Office of Transportation and Air Quality  
U.S. Environmental Protection Agency (EPA)  
1200 Pennsylvania Avenue, N.W. (6401-A)  
Washington, D.C. 20460  
Tel: (202) 564-1083  
Fax: (202) 564-1686

----- Forwarded by Sabrina Hamilton/DC/USEPA/US on 02/24/2004 10:37 AM -----



**Karl Simon**

02/24/2004 10:35 AM

To: Sabrina Hamilton/DC/USEPA/US@EPA  
cc:  
Subject: Re: AL-0400208

yes - we thought we might be able to get out of this meeting but Jeff will be meeting with the Congressman on Thursday. I agree a letter is not needed. Thanks.

Sabrina Hamilton



**Sabrina Hamilton**

02/24/2004 10:07 AM

To: Karl Simon/DC/USEPA/US@EPA  
cc:  
Subject: AL-0400208

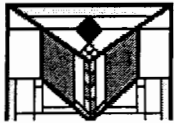


Karl,

Do you know if Jeff is going to discuss issues pertaining to Congressman Kingston's letter (federal gasoline sulfur regulation)? If so, then I can forward this on and see if OCIR will close the assignment. Please advise. Thanks

Sabrina Hamilton  
Information Management Specialist  
Office of Transportation and Air Quality  
U.S. Environmental Protection Agency (EPA)  
1200 Pennsylvania Avenue, N.W. (6401-A)  
Washington, D.C. 20460  
Tel: (202) 564-1083  
Fax: (202) 564-1686

----- Forwarded by Sabrina Hamilton/DC/USEPA/US on 02/24/2004 10:01 AM -----



**Tad Wysor**

02/24/2004 09:57 AM

To: Sabrina Hamilton/DC/USEPA/US@EPA

cc: Judith Reid/AA/USEPA/US@EPA, Karl  
Simon/DC/USEPA/US@EPA

Subject: AL-0400208

Sabrina, since it's been confirmed that Jeff Holmstead is scheduled to meet with Congressman Kingston this Thursday, I don't believe a response letter is now necessary or appropriate. Can you please suggest this to the appropriate people? Let me know if more information would be useful. Thanks!

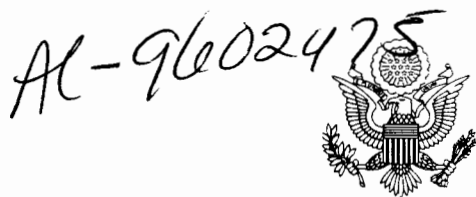
Tad Wysor  
EPA Office of Transportation and Air Quality  
(734) 214-4332

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202)225-5831

BRUNSWICK OFFICE  
Federal Building, Room 304  
Brunswick, GA 31520  
(912)265-9010

**Committee On Appropriations**



**Congress of the United States**  
**House of Representatives**

October 25, 1996

SAVANNAH OFFICE  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912)352-0101

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912)489-8797

WAYCROSS OFFICE  
208 Tebeau Street  
Waycross, GA 31501  
(912)287-1180

Director, Congressional Affairs  
Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington, DC 20460

Sir/Madam

One of my constituents, Mr. *Grule*, has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by my constituent, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Bruce Bazemore. He can be reached at (912) 352-0101.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

**Contact: Bruce Bazemore**  
**Congressman Jack Kingston**  
**6605 Abercorn St., Suite 102**  
**Savannah, GA 31405**

**received**  
CE 10-30-96

# MATERIAL SAFETY DATA SHEET - 114641

Product Name: BRAVO 1500.  
Serial No: 1

Preparation Date: 01/11/95

Supersedes: New

## SECTION 8 - SPECIAL PROTECTION INFORMATION (cont.)

VENTILATION: General room ventilation is normally adequate. Substantial amounts of mists/vapors can be controlled with local exhaust ventilation or respiratory protection.

PROTECTIVE GLOVES: For undiluted product: Long rubber gloves.

EYE PROTECTION: For undiluted product: Chemical goggles.

OTHER PROTECTIVE MEASURES: If major exposure is possible to eyes/skin, wear/use appropriate protective equipment. In case of spills, see Section 6.

## SECTION 9 - PHYSICAL AND CHEMICAL PROPERTIES

COLOR: Clear	PRODUCT STATE: Liquid.
ODOR: Characteristic	Wt: >13
ODOR THRESHOLD: Not available.	SOLUBILITY IN WATER: Complete
SPECIFIC GRAVITY: 1.00	VAPOR DENSITY (AIR=1): Not available.
EVAPORATION RATE (BUTYL ACETATE=1): NOT available.	VAPOR PRESSURE (mm Hg): Not available.
BOILING POINT: 212°F (100°C)	FREEZING POINT: 32°F (0°C)
COEFFICIENT OF WATER/OIL: Not available.	PERCENT VOLATILE BY VOLUME (V): Not available.
VOLATILE ORGANIC COMPOUND (VOC): Monoethanolamine, Glycol ether.	THEORETICAL VOC (LB/GAL): 1.8

## SECTION 10 - STABILITY AND REACTIVITY

STABILITY: Stable
STABILITY - CONDITIONS TO AVOID: None known.
INCOMPATIBILITY: Strong acids (eg., muriatic acid).
HAZARDOUS DECOMPOSITION PRODUCTS: When exposed to fire: Produces normal products of combustion.
HAZARDOUS POLYMERIZATION: Will not occur.
HAZARDOUS POLYMERIZATION - CONDITIONS TO AVOID: None known.

## SECTION 11 - TOXICOLOGICAL INFORMATION (ALSO SEE SECTION 3)

LD50 (ACUTE ORAL TOX): Not available. Corrosive product.
LD50 (ACUTE DERMAL TOX): Not available.
LC50 (ACUTE INHALATION TOX): Not available.
EFFECTS OF CHRONIC EXPOSURE: None known.
SENSITIZATION: None known.
CARCINOGENICITY: None known.
REPRODUCTIVE TOXICITY: None known.
TERATOGENICITY: None known.
MUTAGENICITY: None known.

## SECTION 12 - ECOLOGICAL INFORMATION

ENVIRONMENTAL DATA: Not available.
------------------------------------

## SECTION 13 - DISPOSAL CONSIDERATIONS

WASTE DISPOSAL INFORMATION: Disposal of undiluted product is regulated under environmental and transportation laws as a corrosive waste.
--

## SECTION 14 - TRANSPORTATION INFORMATION

US DOT INFORMATION: Corrosive liquids, N.O.S. (Sodium Hydroxide, Monoethanolamine) 8, UN 1760, PG III
CANADIAN SHIPPING NAME: Not applicable.
TDG CLASSIFICATION: Not applicable.
PIR/NIP: Not applicable.
PACKING GROUP: Not applicable.
EXEMPTION NAME: Not applicable.

## SECTION 15 - REGULATORY INFORMATION

AMHS CLASSIFICATION: Not applicable.
EAS #: Not applicable.
All ingredients of this product are listed or are excluded from listing on the U.S. Toxic Substances Control Act (TSCA) Chemical Substance Inventory.
All ingredients in this product comply with the New Substances Notification requirements under the Canadian Environmental Protection Act (CEPA).
This product is not subject to the reporting requirements under California's Proposition 65.
These ingredients from Section 2 are subject to the following reporting requirements:
MA - The Massachusetts Hazardous Substance List
NJ - The New Jersey Right to Know Hazardous Substance List
PA - The Pennsylvania Hazardous Substance List
SARA - The Superfund Amendments and Reauthorization Act of 1986 Title III, Section 313 and 40 CFR Part 372

## SECTION 16 - OTHER INFORMATION

ADDITIONAL INFORMATION: Use as directed.
EPA REGISTRATION #: Not applicable.

## PREPARATION INFORMATION

PREPARED BY: Manufacturer's Technical Support Department. Refer to page 1 (Manufacturer) for contact information.
---

# MATERIAL SAFETY DATA SHEET - 114641

Serial No: 1

Preparation Date: 01/11/95 Supersedes: New

## US MANUFACTURER

S.C. Johnson & Son, Inc.

Phone: (800) 725-6737

Racine, Wisconsin 53403-5111

Emergency Phone:

(800) 228-5635 Ext 091

International Emergency Phone:

(612) 221-3999 Ext 092

## CANADIAN MANUFACTURER

S.C. Johnson and Son, Limited

Phone: (519) 756-7900

1 Webster Street

Brantford, Ontario N3T 5R1

Transportation Emergency:

CANUTEC (collect) (613) 996-6666

Poison Control: (800) 228-5635

Ext 092

Hazard Rating  
Very High  
High  
Moderate  
Slight  
Insignificant

HMIS	NFPA
3 Health	3
0 Flammability	0
0 Reactivity	0
Special	

## DISTRIBUTED IN CANADA BY:

S.C. Johnson and Son, Limited

Phone: (519) 758-6611

1 Webster Street

Brantford, Ontario N3T 5R1

## SECTION 1 - PRODUCT IDENTIFICATION

PRODUCT NAME: BRAVO 1500+TM			
REASON FOR CHANGE: New.			
PRODUCT USE: Industrial/Institutional: Floor Care			
FINISHED GOOD CODE	QUANTITY	US SIZE	CANADIAN SIZE
4641	1	5 GAL	

## SECTION 2 - INGREDIENT INFORMATION

INGREDIENTS	WT %	EXPOSURE LIMIT/TOXICITY
[PA, NY, MA] Monoethanolamine (CAS #141-43-5)	1-5	3 PPM ACGIH\OSHA TWA, 6 PPM ACGIH\OSHA STEL LD50: 2050 mg/kg (oral-rat)
Sodium Xylene Sulfonate (CAS #1300-72-7)	1-5	NOT ESTABLISHED LD50: >5000 mg/kg (oral-rat)
[SARA, PA, NJ, MA] 2-Butoxyethanol (CAS #111-76-2)	15-20	25 PPM TLV-TWA-DOW CHEMICAL RECOMMENDED LD50: 560-3000 mg/kg (oral-rat) LC50: 500 ppm (inhalation-rat, 4hrs.)
[PA, NJ, MA] Sodium Hydroxide (CAS #1310-73-2)	1-3	2 MG/M3 ACGIH\OSHA CEILING LD50: 140-340 mg/kg (oral-rat) LC50: >40 mg/m3/1hr (inhalation-rat)
Water (CAS #7732-18-5)	70-80	NOT ESTABLISHED

See Regulatory Information (Section 15) for explanation of bracketed information.

## SECTION 3 - HEALTH HAZARDS IDENTIFICATION

ROUTE(S) OF ENTRY:	Eye contact. Skin contact.
EFFECTS OF ACUTE EXPOSURE - EYE:	Corrosive: May cause: Permanent eye damage.
EFFECTS OF ACUTE EXPOSURE - SKIN:	Corrosive: May cause: Chemical burns.
EFFECTS OF ACUTE EXPOSURE - INHALATION:	May cause: Irritation of the respiratory tract.
EFFECTS OF ACUTE EXPOSURE - INGESTION:	Corrosive to mouth and digestive tract.
MEDICAL CONDITIONS GENERALLY RECOGNIZED AS BEING AGGRAVATED BY EXPOSURE: Individuals with chronic respiratory disorders such as asthma, chronic bronchitis, emphysema, etc., may be more susceptible to irritating effects.	

## SECTION 4 - FIRST AID MEASURES

FIRST AID - EYE CONTACT:	Flush immediately with water for 20 minutes. Seek immediate medical attention.
FIRST AID - SKIN CONTACT:	Rinse with plenty of water. If irritation persists, get medical attention.
FIRST AID - INHALATION:	Remove to fresh air.
FIRST AID - INGESTION:	Do not induce vomiting! Drink 1-2 glasses of water or milk. Seek immediate medical attention. Do not administer anything by mouth to an unconscious person.

## SECTION 5 - FIRE AND EXPLOSION INFORMATION

FLASH POINT:	Not applicable.
FLAMMABLE LIMITS:	Not applicable.
AUTO-IGNITION TEMPERATURE:	Not applicable.
EXTINGUISHING MEDIA:	Foam. CO2. Dry chemical. Water fog.
SPECIAL FIREFIGHTING PROCEDURES:	Normal fire fighting procedure may be used. Cool and use caution when approaching or handling fire-exposed containers.
UNUSUAL FIRE AND EXPLOSION HAZARDS:	Corrosive Material (See Sections 7 and 10). Vapors may accumulate in confined spaces (e.g., pits, sumps, sewers) and inadequately ventilated areas.

## SECTION 6 - PREVENTIVE RELEASE MEASURES

STEPS TO BE TAKEN IN CASE MATERIAL IS RELEASED OR SPILLED:	Dike large spills. Absorb with oil-dri or similar inert material. Sweep or scrape up and containerize. Rinse affected area thoroughly with water. Wear/use appropriate protective equipment.
--	--

## SECTION 7 - HANDLING AND STORAGE

PRECAUTIONARY INFORMATION:	DANGER: CORROSIVE: Contains: alkanolamine, glycol ether. May burn skin and damage eyes. Harmful if swallowed. Avoid breathing spray mist or vapors. Avoid contact with skin, eyes or clothing.
OTHER HANDLING AND STORAGE CONDITIONS:	Laundry contaminated clothing/ equipment before reuse. Product residue may remain on/in empty containers. All precautions for handling the product must be used in handling the empty container and residue. Wash thoroughly after handling. Keep from freezing. Keep out of reach of children.

## SECTION 8 - SPECIAL PROTECTION INFORMATION

RESPIRATORY PROTECTION:	If mists/vapors are not adequately controlled by local ventilation, use appropriate respiratory protection to prevent overexposure.
-------------------------	---

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202)225-5831

BRUNSWICK OFFICE  
Federal Building, Room 304  
Brunswick, GA 31520  
(912)265-9010

**Committee On Appropriations**

AL-9602166



**Congress of the United States**  
**House of Representatives**

September 18, 1996

SAVANNAH OFFICE  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912)352-0101

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912)489-8797

WAYCROSS OFFICE  
208 Tebeau Street  
Waycross, GA 31501  
(912)287-1180

Mr. Steve Caldwell  
U.S. Environmental Protection Agency  
401 M Street, S.W.  
Washington, DC 20460

Dear Mr. Caldwell:

In July we met to discuss the clean up of the LCP site in Brunswick, Georgia. During the informative meeting, I asked you about the clean-up status of the Brunswick Wood Preserving Site.

Rep. Kingston has had several constituents inquire about the site because of the danger of contamination to drinking water. I believe toxic waste had already seeped into one well. Would you please give me an update on the status of the clean up for the Brunswick Wood Preserving Site or possibly route this request to the appropriate person? Rep. Kingston is very concerned about the site, and I would greatly appreciate your help.

Sincerely,

Charles E. Sutlive, Jr.  
Legislative Assistant

RECEIVED  
CE 9-20-96



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER  
100 ALABAMA STREET, S.W.  
ATLANTA, GEORGIA 30303-3104

OCT 23 1996

Honorable Jack Kingston  
House of Representatives  
Washington, D.C. 20515-1001

Dear Congressman Kingston:

Thank you for your letter of September 18, 1996, concerning the Escambia Wood Preserving site in Brunswick, Georgia (EPA ID No. GAD981024466).

This site was the subject of an intensive removal action taken under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Re-Authorization Act of 1986 (SARA), more commonly known as Superfund.

Please find enclosed a Notice of Completion letter dated April 18, 1995, regarding the actions taken under the removal authority of CERCLA. This letter gives a chronological listing of the key activities taken at the site to date.

In addition, this site is also being considered for proposal to EPA's National Priorities List (NPL). Should the site be listed on the NPL, it will be eligible for actions under CERCLA's remedial authority. The first step in the NPL process will be conducting a Remedial Investigation (RI) to characterize the contamination remaining onsite. If warranted, a Feasibility Study (FS) will be conducted after the RI in order to identify the remedial alternatives available.

Assuming again that the site is listed on the NPL, an in-house RI will be conducted by EPA's Science and Ecosystem Support Division. At this time, it is anticipated that RI field activities would commence in January 1997.

Your letter specifically inquired about the groundwater quality in the vicinity of the site. As part of the removal actions taken at the site, 47 private drinking water wells in the area were sampled in late 1991 and early 1992. For your convenience, I have also enclosed a data table listing these wells by owner, along with the results obtained. None of the results are above any levels of concern. As shown, only one well had any contaminants that were related to the site. This well is about one mile from the site along Burnett Creek; however, it is not known if the low contaminant levels are attributable to the

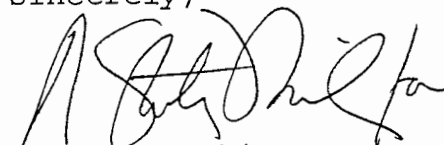


site. This well was re-sampled on two subsequent occasions, and was found to be free of contamination.

Finally, as part of the Brunswick Community Based Environmental Project (CBEP), EPA is conducting groundwater quality assessments throughout the Brunswick area. Last month, 29 additional wells were sampled; of these, 11 are north of I-95 in the general area of the site.

If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "John H. Hankinson, Jr.", written over a horizontal line.

John H. Hankinson, Jr.  
Regional Administrator

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

345 COURTLAND STREET, N.E.  
ATLANTA, GEORGIA 30365

April 18, 1995

Ms. Jennifer Kaduk  
Hazardous Waste Management Branch  
Georgia Environmental Protection Division  
Flood Towers East, Room 1154  
205 Butler Street, SE  
Atlanta, GA 30334

RE: Brunswick Wood Preserving (ESCAMBIA) Removal Action Site,  
Perry Lane Road, Brunswick, Georgia - **Notice of Completion**

Dear Ms. Kaduk:

This letter is in regard to a Notice of Completion for the Brunswick Wood Preserving (ESCAMBIA) Removal Action Site, which is located on Perry Lane Road in Brunswick, Georgia. Because of the length of time and cost which was required to complete this removal action, a site summary is attached which addresses some of the highlights during the cleanup (See attachment).

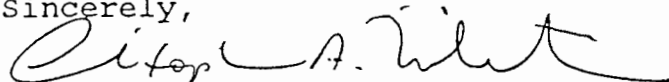
Demobilization activities by the U.S. Environmental Protection Agency's (EPA's) contractors, Earth Tech Remediation Services (formerly ETI) and Roy F. Weston, has commenced and is expected to be completed by April 30, 1995.

There are four "areas of concern" remaining on-site which are discussed in greater detail in the attached summary. Generally, these areas are the process area excavation, the constructed contaminated soil cells, the contaminated PPE storage building and the fiber optics cable easement. These areas have been addressed to the greatest extent practicable while the removal action was being conducted.

There was a tremendous quantity of contaminated soils and sludges which were mixed with other wastes and debris on-site. I am particularly proud of the EPA's contractor efforts to segregate or decontaminate these materials and then actively pursue recycling or reuse measures. Also, it has been extremely encouraging to observe over the last three years that diverse wildlife has returned to large portions of 84 acre site.

By copy of this letter and the attachment, I am informing other interested parties of the completion of the removal action. Should your staff have any questions concerning the removal action, please have them contact me at (404) 347-3931, ext. 6141.

Sincerely,



Christopher A. Militischer, R.E.M.  
Federal On-Scene Coordinator  
Emergency Response and Removal Branch

Attachment

cc: Virginia Gunn, Glynn County Commissioners (w/attachment)  
Dan Parsley, Glynn County Environmental Coalition  
(w/attachment)  
Ron Adams, Barnett Bank (w/attachment)  
Scott Moore, Bell South Telecommunications (w/attachment)  
Tom Tankersley, Southern Bell (w/attachment)  
Doug Lair, EPA (w/attachment)  
Alan Yarborough, EPA (w/attachment)  
Shane Hitchcock, EPA (w/attachment)  
✓ Seth Bruckner, EPA (w/attachment)  
Lt. Steven LaLonde, USCG Gulf Strike Team (w/attachment)

## Site History

EPA's Emergency Response and Removal Branch responded to a fire at the bankrupt facility in early March of 1991. On March 22, 1991, EPA initiated waste water treatment operations and provided emergency stabilization of contaminated surface water runoff. Site characterization efforts and security were also initiated in this first phase of the removal action.

Phase I - March 22, 1991 to February 8, 1992

Key activities: Wastewater treatment, construction of surface water diversion devices, sampling and analyses, emptying or securing leaking tanks, removal of product from tanks, private wells sampled, laboratory wastes removed and disposed of and initiation of dismantlement of the physical plant.

Phase II - February 17, 1992 to April 15, 1992

Key activities: Treatability study on creosote/pentachlorophenol emulsion, demolition of tanks, plans for cell #1 construction, and waste sampling and profiling approximately 250 drums (4/16/92 to 11/15/92: Request for additional funding and development of plans for entire site).

Phase III - November 16, 1992 to May 21, 1994

Key activities: Upgrade of surface and wastewater collection and treatment system, removal and/or treatment of drummed wastes, preparation of plans for cells #2 thru #4, removal and disposal of 250,000 gallons of emulsion, initiation of soil excavation, decontamination and demolition of tanks and recycling/reuse of solid wastes (5/22/94 to 8/20/94: Request for additional funding).

Phase IV - August 21, 1994 to April 30, 1995

Key activities: Completion of soil excavation and construction and capping of cells #2 thru 4, decontamination and removal of remaining process and waste tanks, recycling/reuse of solid wastes, asbestos removal, final site grading, construction of cell fencing, and "post-removal" site closure tasks.

## Off-Site Treatment and Disposal Activities

Laboratory Wastes: 200 containers  
Sulfuric Acid: 3,000 gallons  
Drummed Wastes: 100 containers  
Cresote/pentachlorophenol emulsion: 278,000 gallons  
Contaminated PPE and debris: 210 cubic yards  
Asbestos Shingles: 73 cubic yards  
CCA Product/Wastewater: 30,000 gallons

## On-site Treatment

Wastewater Treatment/Discharge: 14,239,000 gallons  
Drummed Wastes: 150 containers  
Laboratory Wastes: 100 containers

## Recycling/Reuse

Pressure Treating Vessels (Autoclaves): 3  
Poles: 3,247  
Ties: 2,547  
Lumber: 250 loads  
Wood Mulch: 631 loads (2,145 cubic yards)  
Decontaminated Scrap Metal: 1,250,000 pounds  
Other (Plastic, cardboard, glass, aluminum, paper): 2,650 pounds

## Wastes Secured On-Site

Contaminated Soils\* (and Sludge):  
    Cell #1: 36,760 cubic yards (PCP/Creosote soils)  
    Cell #2: 43,440 cubic yards (PCP/Creosote soils)  
            65,000 gallons of sludge  
            1,495 cubic yards of wood chips  
    Cell #3: 56,740 cubic yards (PCP/Creosote soils)  
            9,460 gallons of sludge  
    Cell #4: 17,320 cubic yards (CCA soils)  
    TOTAL: 155,755 cubic yards; 74,460 gallons  
Contaminated PPE in Secured Building: 250 cubic yards

\* Soils were compacted after being placed in the containment cells. The actual volume of the 4 cells is approximated to be 140,000 cubic yards.

Total Estimated Costs to Date: \$10.2 million

## Areas of Concern

1. **Process Excavation Area:** This approximately 2-acre area is located in the southwest corner and was the most contaminated area of the site. Whereas many other contaminated areas of the site could be excavated to cleanup levels before reaching groundwater, the process area excavation is 8 to 9 feet deep. The groundwater is significantly contaminated with creosote and PCP in this area. Thousands of gallons of water from the excavation were pumped and treated while the contractor was removing contaminated soils there. However, groundwater gradually "reappears" due to tidal fluctuations in the excavation and is visibly contaminated with PCP and creosote oils. As predicted, the excavation is acting as a contaminant "sink" and may help to reduce the migration of contaminated groundwater from the former wood treating process area. EPA constructed a compacted, flood control berm in the downgradient area to prevent any off-site surface water migration. The area is fenced and posted with warning signs and the public should be further instructed to stay away from this area.

2. **Soil Containment Cells:** There are four containment cells on site. The bottoms of the cells are constructed with a layer of sand, a geotech fabric, and a fused, 40-mil plastic liner. The leachate collection systems have now been closed and sealed. The tops and sides of the cells are fused, 40-mil plastic liners and are anchored at the toe of the slope. Sandbags are also distributed on the cells to reduce wind effects. These cells contain heavily contaminated, screened soils and sludges. A 6-foot high chain-link fence has been installed around the entire perimeter of the cells. The fence has been posted with appropriate warning signs. The public should be further advised to keep out of this fenced area.

3. **Contaminated PPE in a Secured Building:** EPA has staged approximately 250 cubic yards of uncompact personal protective equipment (PPE) which was utilized on-site during the removal action. Due to land disposal restrictions, cost constraints, and potential future remedial options, EPA began storing these wastes on-site in September of 1993. The former Brunswick Wood Preserving office building was made secure for the purposes of storing these materials. The building was already empty at the time and EPA did not place these materials in the containment cells because of future material handling and compaction concerns. The building is posted and the public should be advised not to enter this structure.

4. **Fiber Optics Cable Easement:** EPA's emergency response and removal personnel were unsuccessful after several attempts to get Bell South Communications (Owner of the easement) or Southern Bell (Lease party of the easement) to relocate the fiber optics cable line which traverses a small, but contaminated portion, of the site. This approximately 250-foot long and 10-foot wide strip is in the southwestern corner of the site and is posted. Contaminated

soils on either side of the easement have been excavated and placed in the cells. It is EPA's understanding that the fiber optics cable provides long-distance communications for a large portion of the City of Brunswick. Also, EPA has learned that Bell South is making arrangements to relocate this cable sometime in the future.

Other portions of the site are generally free from contamination. However, several deep excavations remain and are now filled with water and other physical hazards may also be present. EPA is recommending that the public be further advised to keep children and trespassers off the property until after EPA's remedial program has performed a complete cleanup of the site.

**BRUNSWICK WOOD PRESERVING  
SAMPLE LOG  
PRIVATE WELLS**

SAMPLE STATION	SAMPLE LOCATION	TYPE SAMPLE	DATE/TIME COLLECTED	SAMPLE STATION	DATE SUBMITTED	ANALYSIS PERFORMED	DATE RECEIVED	ANALYSIS RESULTS	COMMENTS
BWP-1	DUCK RESIDENCE 914 OLD JESUP RD. - (912) 265-7006	WATER GRAB	06/15/91	WELL	06/20/91	VOA, BNA	07/05/90	BDL, BDL	
BWP-2	SMITH RESIDENCE 944 JESUP RD. - (912) 265-7087	WATER GRAB	06/15/91	WELL	06/20/91	VOA, BNA	07/05/91	BDL, BDL	
BWP-3	JOHNSON (ROGER) RESIDENCE 871 FLORAVILLE RD.	WATER GRAB	06/15/91	WELL	06/20/91	VOA, BNA	07/05/91	BDL, BDL	
BWP-4	GROOVER (G.H.) RESIDENCE 930 OLD JESUP RD. - (912) 265-2299	WATER GRAB	06/16/91	WELL	06/20/91	VOA, BNA	07/05/91	BDL, BDL	CARBON DISULFIDE ESTIMATED 1.3 PPB
BWP-5	WEBSTER (EDWIN) RESIDENCE 894 OLD JESUP RD. - (912) 265-7087	WATER GRAB	06/16/91	WELL	06/20/91	VOA, BNA	07/05/91	BDL, BDL	
BWP-6	BRANNEN (L.H.) RESIDENCE 886 OLD JESUP RD. - (912) 265-6058	WATER GRAB	06/16/91	WELL	06/20/91	VOA, BNA	07/05/91	BDL, BDL	
BWP-7	MANCIL (RHONDA) RESIDENCE 878 OLD JESUP RD. - (912) 265-0546	WATER GRAB	06/16/91	WELL	06/20/91	VOA, BNA	07/05/91	BDL, BDL	CARBON DISULFIDE ESTIMATED 1.3 PPB
BWP-8	HOLTEN (J.W.) RESIDENCE 112 KNIGHT RD. - (912) 265-8420	WATER GRAB	06/16/91	WELL	06/20/91	VOA, BNA	07/05/91	BDL, BDL	CARBON DISULFIDE ESTIMATED 1.4 PPB
BWP-9	HENRY, (KATE) RESIDENCE 114B KNIGHT RD. - (912) 265-1659	WATER GRAB	06/16/91	WELL	06/20/91	VOA, BNA	07/05/91	BDL, BDL	
BWP-10	HERNDON (JOE) RESIDENCE 114 KNIGHT RD. - (912) 265-6152	WATER GRAB	06/17/91	WELL	06/20/91	VOA, BNA	07/05/91	BDL, BDL	
BWP-11	BLOCKER (JANIE) RESIDENCE 108A KNIGHT RD. - (912) 267-6649	WATER GRAB	06/17/91	WELL	06/20/91	VOA, BNA	07/08/91	BDL, BDL	
BWP-12	HIMES (SUSAN) RESIDENCE 110B KNIGHT RD. - (912) 267-1618	WATER GRAB	06/17/91	WELL	06/20/91	VOA, BNA METALS	07/05/91	BDL, BDL	* COPPER - 6.0 PPB
BWP-13	HERNDON (W.) RESIDENCE 109 KNIGHT RD. - (912) 264-0852	WATER GRAB	06/17/91	WELL	06/20/91	VOA, BNA	07/05/91	BDL, BDL	
BWP-14	CREWS (DEBBIE) RESIDENCE 152 WILLOW RD. - (912) 267-6623	WATER GRAB	06/17/91	WELL	06/20/91	VOA, BNA	07/08/91	BDL, BDL	CARBON DISULFIDE ESTIMATED 1.9 PPB
BWP-15	STRICKLAND (C.) RESIDENCE 906 FLORAVILLE RD. - (912) 264-6744	WATER GRAB	06/17/91	WELL	06/20/91	VOA, BNA	07/08/91	BDL, BDL	



**BRUNSWICK WOOD PRESERVING  
SAMPLE LOG  
PRIVATE WELLS**

SAMPLE STATION	SAMPLE LOCATION	TYPE SAMPLE	DATE/TIME COLLECTED	SAMPLE STATION	DATE SUBMITTED	ANALYSIS PERFORMED	DATE RECEIVED	ANALYSIS RESULTS	COMMENTS
BWP-16	UTZ (DICK) RESIDENCE 101 HICKORY RD. (912) 265-5687	WATER GRAB	06/17/91	WELL	06/20/91	VOA, BNA	07/08/91	BDL, BDL	
BWP-17	HAUTALA (MARY) RESIDENCE 142 HAUTALA DR. - (912) 265-3468	WATER GRAB	06/17/91	WELL	06/20/91	VOA, BNA	07/08/91	BDL, BDL	CARBON DISULFIDE ESTIMATED 1.4 PPB
BWP-18	HARVEY (ANTHONY) RESIDENCE 210 WINNIE TRAIL - (912) 267-9231	WATER GRAB	06/17/91	WELL	06/20/91	VOA, BNA METALS	07/08/91	BDL, BDL	* COPPER - 3.2 PPB
BWP-19	OUTLAND (CAMELLIA) RESIDENCE 112 MARIE TRACE - (912) 264-0908	WATER GRAB	06/17/91	WELL	06/20/91	VOA, BNA	07/08/91	BDL, BDL	CARBON DISULFIDE ESTIMATED 2.6 PPB
BWP-20	LA MANTAIN RESIDENCE 105 GEORGE LANE - (912) 264-4011	WATER GRAB	06/17/91	WELL	06/20/91	VOA, BNA	07/08/91	BDL, BDL	CARBON DISULFIDE ESTIMATED 1.9 PPB
BWP-21	SOUTHEAST CLEARING P.O. BOX 2435 PERRY LANE RD. (912) 264-9254	WATER GRAB	06/18/91	WELL	06/20/91	VOA, BNA METALS	07/08/91	BDL, BDL BDL	CARBON DISULFIDE ESTIMATED 2.7 PPB, METYL ETHYL KETONE ESTIMATED 11 PPB
BWP-22	FINN (PAUL S.) RESIDENCE 11 GEORGE LANE - (912) 265-9391	WATER GRAB	06/18/91	WELL	06/20/91	VOA, BNA METALS	07/08/91	BDL, BDL BDL	
BWP-23	GRIFFIS STEEL RT. 11, BOX 3 - (912) 265-0760	WATER GRAB	06/18/91	WELL	06/20/91	VOA, BNA METALS	07/08/91	BDL, BDL BDL	
BWP-24	LANDER (JOHN) RESIDENCE 880 FLORAVILLE RD - (912) 265-8749	WATER GRAB	06/17/91	WELL	06/20/91	VOA, BNA METALS	07/08/91	BDL, BDL BDL	CARBON DISULFIDE ESTIMATED 2.0 PPB
BWP-25	GROOVER (LIZZIE) RESIDENCE 108 KNIGHT RD. - (912) 265-2299	WATER GRAB	06/16/91	WELL	06/20/91	VOA, BNA	07/08/91	BDL, BDL	
BWP-26	OUTLAW (BARBARA) RESIDENCE 111G KNIGHT RD. - (912) 264-8515	WATER GRAB	06/17/91	WELL	06/20/91	VOA, BNA METALS	07/08/91	BDL, BDL BDL	CARBON DISULFIDE ESTIMATED 1.4 PPB
BWP-27	TRIP BLANK	WATER GRAB	06/19/91	ESD	06/20/91	VOA	07/08/91	BDL, BDL BDL	
BWP-28	McCLURD (J.M.) RESIDENCE 712 NEW JESUP RD. - (912) 265-7426	WATER GRAB	07/01/91	WELL	07/02/91	VOA, BNA	07/08/91	BDL, BDL	
BWP-29	TRIP BLANK	WATER GRAB	07/01/91		07/02/91	VOA			

**BRUNSWICK WOOD PRESERVING  
SAMPLE LOG  
PRIVATE WELLS**

SAMPLE STATION	SAMPLE LOCATION	TYPE SAMPLE	DATE/TIME COLLECTED	SAMPLE STATION	DATE SUBMITTED	ANALYSIS PERFORMED	DATE RECEIVED	ANALYSIS RESULTS	COMMENTS
BWP-30	REDDING (NELL) RESIDENCE 671 HWY. 341 - (912) 265-5583	WATER GRAB	07/12/91	WELL	07/12/91	VOA, PCP CREOSOTE	07/25/91	BDL, BDL BDL	PHENANTHRENE - 10 PPB PYRENE - 10 PPB
BWP-32	REDDING (NELL) RESIDENCE 671 HWY 341 - (912) 265-5583	WATER GRAB	12/10/91	WELL	12/10/91	VOA, METALS EXTRACTABLES	01/09/92	BDL, BDL BDL	
BWP-33	LANE (GARY & PATTY) RESIDENCE 1000 OAK BLUFF RD - (912) 262-9202	WATER GRAB	12/10/91	WELL	12/10/91	VOA, METALS EXTRACTABLES	01/09/92	BDL, BDL BDL	
BWP-34	SIKES (WILLIAM) RESIDENCE 934 OLD JESSUP RD. - (912) 265-1427	WATER GRAB	01/09/92	WELL	01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	
BWP-35	BENNETT (H. JAMES) RESIDENCE 2 EULALEE ROAD - (912) 264-1135	WATER GRAB	01/09/92	WELL	01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	CARBON DISULFIDE - 5 PPB CHLOROFORM EST. - 0.7 PPB
BWP-36	POINDEXTER (FREDDY) RESIDENCE 99 EULALEE RD. - (912) 262-5812	WATER GRAB	01/10/92	WELL	01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	CHLOROFORM ESTIMATED 0.7 PPB
BWP-37	TUCKER (J.H.) RESIDENCE 6 EULALEE RD. - (912) 264-3974	WATER GRAB	01/10/92	WELL	01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	CHLOROFORM ESTIMATED 0.9 PPB
BWP-38	UNDERWOOD (E.D.) RESIDENCE 116 BURNETT RD. - (912) 265-9342	WATER GRAB	01/10/92	WELL	01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	
BWP-39	SIZEMORE (DONALD) RESIDENCE 120 1/2 BURNETT RD. - (912) 262-1416	WATER GRAB	01/10/92	WELL	01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	CHLOROFORM ESTIMATED 0.5 PPB
BWP-40	VICENT (EUGENE) RESIDENCE 120 BURNETT RD. - (912) 264-2456	WATER GRAB	01/10/92	WELL	01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	
BWP-41	MURRAY (KEN) RESIDENCE 133 HIGHLAND PARK DR. (912) 264-8274	WATER GRAB	01/10/92	WELL	01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	
BWP-42	CASSIDY (C.S.) RESIDENCE 130 BURNETT RD. - (912) 265-4335	WATER GRAB	01/10/92	WELL	01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	CHLOROFORM ESTIMATED 0.5 PPB
BWP-43	ROGERS (BRYAN) RESIDENCE 102 OAK ST. - (912) 264-6956	WATER GRAB	01/10/92	WELL	01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	
BWP-44	REDDING (PAUL) RESIDENCE 104 OAK ST. - (912) 267-7937	WATER GRAB	01/10/92	WELL	01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	
BWP-45	BENNETT (JAMES) RESIDENCE 16 EULALEE RD. - (912) 264-8041	WATER GRAB	01/10/92	WELL	01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	PHENOL ESTIMATED - 2 PPB

**BRUNSWICK WOOD PRESERVING  
SAMPLE LOG  
PRIVATE WELLS**

SAMPLE STATION	SAMPLE LOCATION	TYPE SAMPLE	DATE/TIME COLLECTED	SAMPLE STATION	DATE SUBMITTED	ANALYSIS PERFORMED	DATE RECEIVED	ANALYSIS RESULTS	COMMENTS
BWP-46	HOWELL (D.W.) RESIDENCE 204 WATER ST. - (912) 265-8575	WATER GRAB	01/10/92	WELL	01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	
BWP-47	REDDING (NELL) RESIDENCE 671 HWY. 341 - (912) 265-5583	WATER GRAB	01/10/92	WELL	01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	
BWP-48	COX (MICHAEL & JACKIE) RESIDENCE 114 BURNETT RD. (912) 265-9613	WATER GRAB	01/10/92	WELL	01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	
BWP-49	SAPP (JANICE) RESIDENCE 1001 OAK BLUFF RD. - (912) 262-0167	WATER GRAB	01/11/92	WELL	01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	
BWP-50	HILLIARD (THOMAS) RESIDENCE 154 RIVER RIDGE RD. - (912) 267-1177	WATER GRAB	01/11/92	WELL	01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	
BWP-50 DUP.	HILLIARD (THOMAS) RESIDENCE 154 RIVER RIDGE RD.	WATER GRAB	01/11/92	WELL	01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	
BWP-TRIP	DISTILLED WATER ATLANTA TAT OFFICE	WATER GRAB	01/09/92		01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	CHLOROFORM ESTIMATED 0.6 PPB
BWP-51	RILEY (TOM) RESIDENCE (ESD H2O BLANK) SAME AS CREEK SAMPLE #45 ANALYZED FOR METALS	WATER GRAB	01/09/92		01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	
BWP-52	JONES (BILLY H.) RESIDENCE 107 WATER ST. - (912) 264-0842	WATER GRAB	01/22/92	WELL	01/13/92	VOA EXTRACTABLES	02/05/92	BDL BDL	CARBON DISULFIDE EST. 1.7 PPB

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202)225-5831

BRUNSWICK OFFICE  
Federal Building, Room 304  
Brunswick, GA 31520  
(912)265-9010

**Committee On Appropriations**



**Congress of the United States**  
**House of Representatives**

August 8, 1996

SAVANNAH OFFICE  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912)352-0101

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912)489-8797

WAYCROSS OFFICE  
208 Tebeau Street  
Waycross, GA 31501  
(912)287-1180

Director, Congressional Affairs  
Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington, DC 20460

Sir/Madam

One of my constituents, Mr. *Mr. L*, has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by my constituent, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Bruce Bazemore. He can be reached at (912) 352-0101.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

*Jack*  
Jack Kingston  
Member of Congress

**Contact: Bruce Bazemore**  
**Congressman Jack Kingston**  
**6605 Abercorn St., Suite 102**  
**Savannah, GA 31405**

*8/19/96*

**JACK KINGSTON**  
**1st District, Georgia**

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202)225-5831

BRUNSWICK OFFICE  
Federal Building, Room 304  
Brunswick, GA 31520  
(912)265-9010

**Committee On Appropriations**



# Congress of the United States

## House of Representatives

SAVANNAH OFFICE  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912)352-0101

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912)489-8797

WAYCROSS OFFICE  
208 Tebeau Street  
Waycross, GA 31501  
(912)287-1180

### INTER OFFICE MEMORANDUM

DATE: August 8, 1996

OFFICE LOCATION: SAVANNAH

CONTACT MADE: BY PHONE\_\_\_ BY LETTER\_\_\_ IN PERSON\_XX\_

NAME: Mr.

ADDRESS: 1:  
Savannah, GA 31404

TELEPHONE\_\_\_\_\_(HOME)\_\_\_\_\_(OFFICE)

NATURE OF INQUIRY:

Mr. \_\_\_\_\_ has contacted my office to inquire as to what the EPA Pesticide/Chemical serial number is for a substance called Di Ethyl Phthalate.

Mr. \_\_\_\_\_ wants to also get approved by EPA to use this ingredient in an insecticide. Unfortunately he has to have the EPA # before he can write a letter to EPA to get registered to sell this in an insecticide. (In the event that this is not a registered substance, please send him information on how to register it with the EPA with a number.) Please assist my constituent in finding this number. Thank you for your help in this matter.

Please Reply to:

Congressman Jack Kingston  
6605 Abercorn Street  
Suite 102  
Savannah, GA 31405  
Attn: Bruce Bazemore

"Mv. 1

Sav. GA 3/14/04

DEP. Diethyl - Phthalate (4088)

disposal # 40.88 -

Need EPA No. & How do we get a  
"Cert." for Manufacturing an Insect Repellent?

Allan Chemical Corp.

P.O. Box 1837

Fort Lee, N.J. 07024

} manufacturer  
or distributor

DEP is an Ingredient in insect repellent they  
want to sell.

Needs an EPA # to get certificate  
for manufacturing.

If it does not have one - how to get?

Ref  
4043474265-  
4106  
Mulligan

OPP/PSPS/E.Thornton/305-5706/AL-9601869/9/20/96  
V:\user\PSPS\lets96\Kingston  
TS AL Karen Whitby, RD

Honorable Jack Kingston  
Member, United States  
House of Representatives  
6605 Abercorn Street  
Savannah, GA 31405

Dear Congressman Kingston:

Thank you for your letter of August 8 on behalf of  
Mr. *Apple* regarding the chemical diethyl phthalate.  
Mr. *Apple* apparently wishes to formulate a pesticide and  
would like information about getting a product registered.

Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), pesticides must be registered (licensed) by the Environmental Protection Agency (EPA) before they may be sold or distributed in commerce. EPA registers pesticides on the basis of scientific data adequate to show that they can perform their intended function when used according to label directions, without posing unreasonable risks of adverse effects on human health or the environment. If a pesticide chemical has already been registered by someone else, your constituent may be able to rely on much of the data already submitted provided he makes an offer to pay for those data.

Enclosed is a "Registration Package." It includes a copy of FIFRA, Pesticide Product Registration Application Forms, and several guidance documents. Also enclosed is a copy of a computer data report which includes the chemical name and numbers which refer to it. After your constituent has examined the materials in the package, he should contact Ms. Karen Whitby of our Registration Division at (703) 305-5404. Ms. Whitby stands ready to assist him.

I hope this has been helpful. Please let me know if I may be of further service.

Sincerely yours,

*Susan H. Wayland*  
for Lynn R. Goldman, M.D.  
Assistant Administrator

Enclosures



**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202)225-5831

BRUNSWICK OFFICE  
Federal Building, Room 304  
Brunswick, GA 31520  
(912)265-9010

**Committee On Appropriations**



**Congress of the United States**  
**House of Representatives**

SAVANNAH OFFICE  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912)352-0101

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912)489-8797

WAYCROSS OFFICE  
208 Tebeau Street  
Waycross, GA 31501  
(912)287-1180

February 7, 1996

Ms. Lynne Ross  
Environmental Protection Agency  
401 M Street, S.W.  
Washington, D.C. 20460

Dear Ms. Ross:

One of my constituents, Mr. *EXP. 6* of St. Simons Island, Georgia, has contacted me regarding a matter in which I believe your office may be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to Mr. *EXP. 6* concerns, and offering any assistance available under the applicable laws and regulations.

The contact person in my office for this matter is Charlie Sutlive, 202-225-5831.

Thank you very much for your kind attention to my request, and for advising me of any action you should take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

Enclosure

1.  
ST. SIMONS ISLAND, GA 31522

January 25, 1996

Congressman Jack Kingston  
1507 Longworth House Office Building  
Washington DC 20515

Dear Congressman Kingston:

Attached is a publication from a local environmental activist group. I am reading the document, it is apparent that federal tax money is being given to this group to support their activism. Is that true?

If so, I want it STOPPED. We have quite enough federal agencies authorized and laws on the books to competently protect us without giving my tax money to scientifically incompetent rabble raising such as this. I don't want my tax money to go to this group or any other like it.

What can you do to stop this waste of my money? Please help us with financial responsibility.

Thank you.

Sincerely,

ekp.6



# The Glynn Environmental Coalition

Post Office Box 2443, Brunswick, GA 31521

*"A Community Non-Profit Organization Committed to Assuring a  
Clean Environment and a Healthy Economy for Citizens of Coastal Georgia"*

Volume 1, Number 7

January/February 1996

## Message From the President

The Holiday Season has a way of making us take a close look at sharing and caring for one another. It is in this spirit that I want to begin this new year in Coastal Georgia. It is all too easy to become "fed up" when trying to bring positive change to a community. It seems that everywhere one turns, ones nose becomes all too friendly with that proverbial brick wall. Have we, like many other communities, lost control of our community to vested, special interests, who may hire nice people, but are not really people or human at all? Corporations are not people, they are end of the year profit and loss statements. Was the O'Brien Corporation a good neighbor? Now we know that they are headquartered in California and have not cooperated with EPA like the other past owners to do their part to clean up the mess they left at the LCP Chemicals Plant. They also refuse to let EPA and EPD collect soil and water samples, as part of the Brunswick Initiative Study, at their closed facility on Highway 17. Why? Guess!

The point I am attempting to make is simply this, don't be naive enough to believe that corporations love you, are looking out for your best interests or those of your family and neighbors. Don't believe they put your health ahead of their profits. Their Public Relations people are paid to "Greenwash" the real issues with donations of computers and playgrounds. It is our responsibility to care for one another, to do what is best for our families, our livelihood and our health. This does not mean I am against industry, but that the health, economy, and safety of our community should be our first priority. The O'Brien Corporation doesn't live here any more. Does their representative in California care about us? No, they will now do only what Federal and State agencies can force them to do through the environmental laws currently under attack in Congress. The cumulative effects of the toxic substances we are exposed to on a daily basis will affect our lives in very human ways. Let's do all we can to think clearly, act responsibly, and live healthy lives without pollution! by: Phyllis Bowen

Mike Luckovich Atlanta Constitution



### MARK YOUR CALENDARS

Glynn Environmental Coalition

Wednesday, January, 31

7:00 p.m.

Brunswick-Glynn County

Regional Library

Gloucester & Bay Street

Brunswick, Georgia

call: 638-6852

Residents United for Planning

& Action (RUPA)

Tuesday, January 23

7:30p.m.

St. Simons Island Casino

call: 638-9329

Coastal Georgia Audubon  
Society meets the 2nd Thursday  
of each month, 7:30, DNR Bldg.

Hwy.17 South

call: 638-3045

## GRAPEVINE

◆ Debbie Vaughn-Wright, EPA National Priorities List (NPL) Coordinator, reports the EPA has drafted the Hazard Ranking System Scoring (HRSS) package for the BRUNSWICK WOOD PRESERVING SUPERFUND SITE. The site must receive a score before it can be placed on the NPL. Currently, the HRSS is in Washington D. C. going through review. Site Project Manager, Mike Arnett, reports there is no indication of funding the cleanup soon. When the U. S. Congress passes the budget, priorities for funding will be set by the EPA.

◆ The Dorothy Rayfield reports the EPA BRUNSWICK INITIATIVE (BI) plans NPDES facility sampling, residential soil and well sampling, and air monitoring to start in the next few months. The BI has been delayed about two months during the federal budget debate. Samples of surface waters and sediments have been taken and the EPA is waiting for the results.

◆ EPA Project Manager, Alan Yarbrough reports the results from the study of in-situ stabilization done in two cells at the HERCULES 009 LANDFILL SUPERFUND SITE are expected soon. The Removal Action at the Altama Elementary School remains incomplete. No action has been taken to eliminate the drainage ditch as a migration route.

◆ The Emergency Response and Removal at the LCP CHEMICALS SUPERFUND SITE is continuing. EPA On-site Coordinator, Paul Peronard reports the demolition of the chloro-alkali plant is expected to be completed in June. Excavation of the plant disposal area is nearing completion and the scrap yard and refinery wastes are next on the list for removal. Railroad shipment of contaminated soil is expected to start around the end of the month. Mr. Peronard invites persons interested in site activities to be given a tour of the site (a call one day ahead is requested, 264-9533). LCP Remedial Project Manager, Alan Yarbrough is expecting the revised Work Plan for the LCP Chemicals Remedial Investigation on January 31, 1996.

◆ The Technical Assistance Grant (TAG) for the LCP CHEMICALS SUPERFUND SITE has been awarded to the Glynn Environmental Coalition (GEC). The TAG consists of \$50,000 in federal funds and \$12,500 in-kind from members of the community. Newspaper ads requesting proposals have been placed and solicitations are currently being sent out. The deadline for proposals is February 15. The GEC will then select the advisors after ranking proposals, interviewing prospective advisors, and conducting negotiations.

*By: Daniel Parshley, Vice President*

---

## IT IS NOT ENOUGH TO LOVE NATURE

A commitment to an ideal is not a nine to five job. I was recently approached by a woman who, I suppose, wishing to proclaim her activism, said she still watches birds but doesn't get into politics. Detecting an element of ire in her voice, I merely nodded expressionless and thought to myself that this person will be the first to come running, kicking and screaming, to me when her favorite bird is endangered because of the actions of a political machine doing the bidding of the power elite. The great mass of people are still under the illusion that environmentalism is something on T.V. that a small group of extremists with long hair are doing. The right wing crowd is now attacking environmentalists by labeling them communists and socialists. The environment in which we live is everything we are, but it is not a political agenda. It supports our way of life, our health, our economy. It is the complex web of functions which sustain all life and the earth itself. So when I hear Rush Limbaugh and his freshmen congressional buddies call me a communist I become ever more committed to the work of preserving our natural world. When the majority of Americans rise up against corporations which deliberately circumvent the laws of our country to allow them to pollute our air and water, then will the party of the right realize they have made a very bad mistake. It is not enough to love nature. We must endeavor to know it and embrace it, and act to save it.

*Gary G. Drury*

## Is Glynn County Being Protected From Contaminated Seafood?

Well, I have eaten shrimp and fish out of Turtle River, and a good bit too, and I am not dead so I guess the seafood is safe. Or is it? Is the seafood going to make me sick?

The whole debate about the seafood in Glynn County boils down to one thing - the risks associated with consuming the seafood.

Risk from eating contaminated seafood is not the same for all people. There are a lot of factors that effect risk. The age, sex, weight, pregnancy, and nutrition of a person all play a role, but one, amount consumed, is the greatest factor because it determines the total dose and how often a person is exposed.

Amount of seafood consumed is used to determine the maximum level, or Action Level, for a chemical in wholesome seafood. The Georgia Department of Natural Resources (DNR) has used the FDA Action Level to delineate areas where the seafood is not safe for consumption but is currently changing to a risk based approach. The FDA set the levels for each chemical in the 1970's using 6.5 grams per day, or 5.3 pounds per year, as the average eaten by all Americans. The FDA makes the assumption that a person is eating from the "nation's food basket" and contaminated seafood will be diluted in the food stream. In addition, the FDA recommends not using the their Action Levels for populations exposed to a local contaminated seafood source.

Different government agencies use different consumption figures. Below are the consumption levels currently in use by several agencies and the allowable level for PCB's and mercury extrapolated from the FDA Action Levels. Actual protective Action Levels would be lower than those shown for an amount eaten.

ITEM	FDA	USDA(1)	USDA(2)	DEPT. OF COMMERCE
Grams Per Day - (28 grams = 1 oz.)	6.5	21.0	221.0	18.4
Pounds Per Year -	5.3	17.1	180.0	15.0
No. of 8 oz. Meals - (Per Year)	10.6	34.2	360.0	30.0
PCB Action Level -	2.0 PPM	0.6 PPM	0.04 PPM	0.70 PPM
Mercury Action Level -	1.0 PPM	0.3 PPM	0.02 PPM	0.35 PPM

(1) Average consumed by all Americans

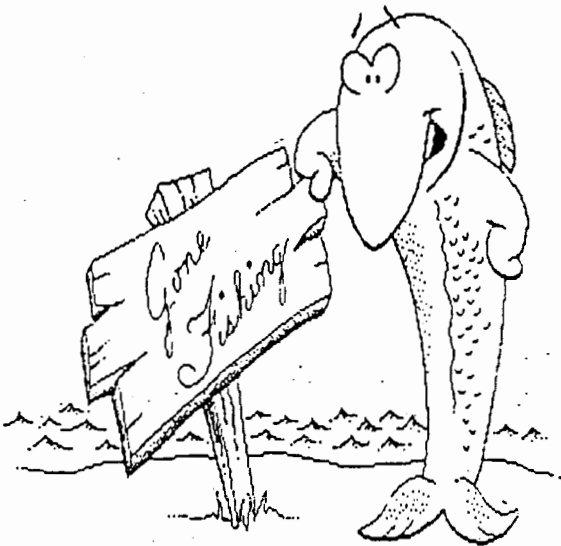
(2) Maximum consumed or worse case scenario

Randall Manning, DNR Environmental Toxicology Coordinator, has produced new guidelines based on consumption and contaminate level of PCB's and mercury. "This scale is based on a range of meal sizes from 1/4 to 1/2 pound. We do not offer separate guidance for children and pregnant women, but we do recommend that they consume less than the guidelines by reducing there consumption to the next most restrictive category", wrote Mr. Manning.

All chemical levels below are in Parts Per Million (PPM).

CHEMICAL	NO RESTRICTION	ONE MEAL/ WEEK	ONE MEAL/ MONTH	DO NOT EAT	FDA ACT.LEV.
PCB's	< 0.07	≥ 0.07	≥ 0.21	≥ 0.71	2.0
Mercury	< 0.23	≥ 0.23	≥ 0.70	≥ 2.30	1.0

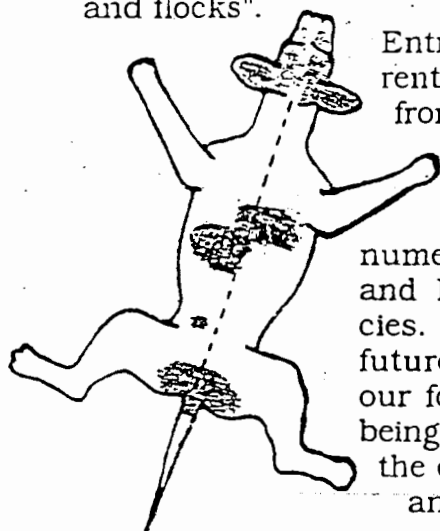
Daniel Parshley



## THE ENTRAILS OF ANIMALS

I wonder why long ago, some cultures told their fortune by someone reading the entrails of animals. The practice of reading entrails has never really stopped. Chemical science and analytical techniques have not replaced the skilled eye of persons who know what healthy internal organs look like. Today a microscope is used for closer inspection but the ultimate goal is still looking for organs that are abnormal in size or diseased.

The ancient entrails readers might have been able to tell what the future held more than we think they could. An entrails reader may have told the herdsman whose animals entrails were healthy, "I predict your flocks will multiply, you will have many children, and your wealth will grow." Likewise the reader may have told the herdsman with diseased animal entrails, "A curse has come to your land and if you do not move from here, a great plague will come upon your family and flocks".

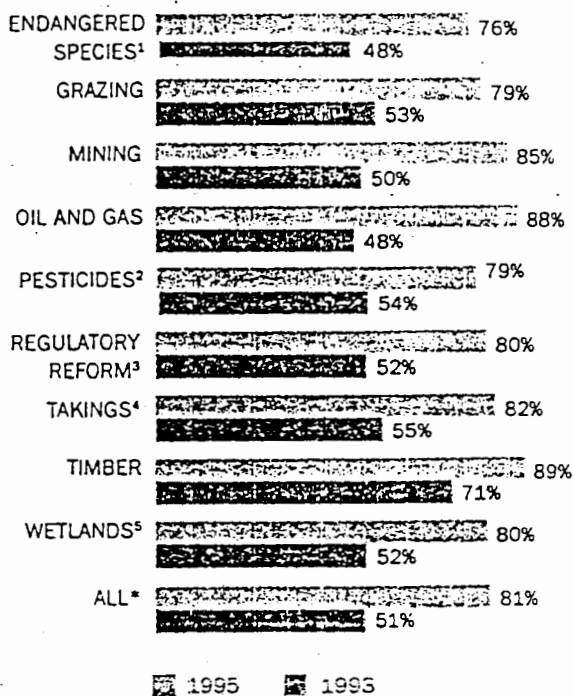


Entrails are currently being read from land and sea animals in Glynn County by numerous State and Federal agencies. In the near future, it might be our fortune that is being predicted on the entrails of animals.

### Coastal Zone Management A Good Thing for Our Future

Write Governor Miller and tell him you support the proposed Coastal Zone Management Plan for Georgia. Send a copy to Tiffany Lutterman, DNR, One Conservation Way, Brunswick, GA 31523. From an environmentalist's viewpoint it is not a perfect plan but is a beginning toward comprehensive, long-term planning for Coastal Georgia. The recent zoning changes approved on St. Simons Island are an example of what happens when decisions made by a few affect the whole even when a large number of citizens oppose the action. With citizen participation CZM could become a positive tool for preserving habitat, wetlands, river corridors, and the beauty of the Golden Isles. Write Today!

### Environmental Agenda: Industry Contributions to Republicans '93 v. '95 January - June



\* All examples together, minus overlap among groupings

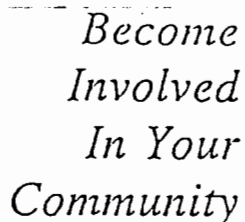
<sup>1</sup> ENDANGERED SPECIES: PACs associated with members of the National Endangered Species Act Reform Coalition

<sup>2</sup> PESTICIDES: PACs associated with members of the National Crop Protection Association or coded as agricultural chemicals by the Center

<sup>3</sup> REGULATORY REFORM: member companies of Project Relief, an industry coalition lobbying for regulatory reform

<sup>4</sup> TAKINGS: real estate developers, grazing, mining, timber, water interests, farm bureaus

<sup>5</sup> WETLANDS: PACs associated with members of the National Wetlands Coalition



We invite you to become a co-worker with the G.E.C. by offering your support. Your ideas, opinions, and views are a very important resource, vital to assuring positive growth for Coastal Georgia. You can influence decisions made which will impact your life and the lives of others. Please join with us in protecting our community's health and economic future.

## Membership

\_\_\_\_\_ Citizen - \$10      \_\_\_\_\_ Organization - \$25  
 \_\_\_\_\_ Corporate - \$50      \_\_\_\_\_ Benefactor - \$50-up

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

*Thank you for your tax deductible contribution.*

Please make checks payable to: Glynn

*Environmental Coalition, Inc., P.O. Box 2443*

Branswick, GA 31521

**"It used to be that lobbyists waited in the lobby. Now they're being whisked into offices to write legislation. Those who write checks, write the laws....it's not the kind of change Americans voted for." Sen. Christopher Dodd (D-Conn.) (The Christian Science Monitor, 11/8/95)**



Thanks Jack...Really!

U.S. Congressman Jack Kingston voted twice for the seventeen "riders" which were attached to the House EPA appropriations bill which would have cut EPA's enforcement capabilities by as much as sixty percent, and directly impacted the cleanup of some of Glynn County's toxic sites. Many of us let him know that we didn't appreciate his votes and what they might mean for the health of our community.

Then in November Kingston was the only Georgia Republican to vote for the "motion to instruct" conferees to remove the "riders" from the bill. We do not know yet what the final outcome will be for funding the cleanup of the toxic sites in our county, but at least Representative Kingston seems to have listened to his constituents when it came to something as serious as Brunswick Wood Preserving NPL Site, LCP Chemicals Superfund Site, and 009 Hercules Superfund Site.

Please take the time to thank Rep. Kingston for this vote. We sometimes forget to encourage our representatives when they do something good! His fax number is 202/226-2269 or his local address is 6605 Abercorn St., Savannah, GA 31406.

"...It's a little shocking to see how quickly freshmen congressmen are spending a great deal of their time raising money. Why do all these corporations pour a ton of money into helping some guy from a district in Oregon prepare himself for the next election? The answer is they are buying affirmative action, they are buying preference, they are buying quotes...all the same things we think are terrible when the same terms are applied to minorities and those of our citizens we think are less advantaged." Colin Powell (Wall Street Journal, 9/18/95)







UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

345 COURTLAND STREET, N.E.  
ATLANTA, GEORGIA 30365

FEB 26 1996

Honorable Jack Kingston  
House of Representatives  
Washington, DC 20515

Dear Congressman Kingston:

Thank you for your letter dated February 7, 1996, on behalf of your constituent, Mr. *Ex. 6* concerning the use of federal tax money to support the Glynn Environmental Coalition (the Coalition).

Your constituent is correct in that federal funds have been provided to the Coalition through a Technical Assistance Grant (TAG) pursuant to Section 117(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). This TAG provided funds to the Coalition to hire independent technical advisors to help them understand and comment on site-related information, and participate in cleanup decisions at the Hercules Superfund Site in Brunswick, Georgia. However, the publication attached to your constituent's letter is not being funded by the TAG. The Coalition uses other sources of funds to address environmental issues not covered by the TAG.

We hope that we have provided you with the necessary information to address the concerns raised by Mr. *Ex. 6*. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

*John H. Hankinson, Jr.*  
John H. Hankinson, Jr.  
Regional Administrator



JACK KINGSTON  
1st District, Georgia

WASHINGTON OFFICE  
1034 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX



AL-0201495

# Congress of the United States

## House of Representatives

August 16, 2002

Committee On Appropriations

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

Mr. James McDonald, Pesticides  
Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington, D.C. 20460

Dear Mr. McDonald:

One of my constituents, Mr. *Apple* has contacted me regarding a matter in which I believe you and/or your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by my constituent, and providing any assistance available under the applicable laws and regulations. The contact person on my staff for this case is Shiela W. Elliott and she can be reached in my Statesboro office at (912) 489-8797.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

JK:swe

August 3, 2002

Attn: Jack Kingston

From: *EXP. L*

Dear Mr. Kingston,

Please find attached copies of the paperwork received from the EPA by the John C. Wilson Co. of Millen, Ga. As I indicated to you over the phone, paperwork concerning the reporting of the amount of Roundup Ultramax repackaged by Wilson Co. was inadvertently overlooked due to illness and therefore experienced a delay in the reporting. We have been in business since 1908 and have never had this happen before.

After receiving notification of the above, I, as owner of the John C. Wilson Co., called or received a call from the EPA and was told that I owed a fine of \$3500. We are just a small agri-business and we would feel the impact of such a large fine. If there is anything you can do to help it would be appreciated. Thanks in advance for your help.

Sincerely,

*EXP. L*

Enc.

pu



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
81 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

JUL 15 2002

4APT-PS

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Horace Weathersby, III  
John C. Wilson Co.  
1120 Old Sylvania Road  
Millen, GA 30442

SUBJ: Opportunity to Show Cause; John C. Wilson Co., Millen, Georgia  
Violation of Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)  
EPA Establishment No.: 072518-GA-001

Dear Mr. Weathersby:

The United States Environmental Protection Agency (EPA) has reason to believe that the above-referenced company violated provisions of the FIFRA, 7 U.S.C §§ 136 *et seq.* Specifically, the company failed to file the calendar year 2001 annual *Pesticide Report for Pesticide-Producing Establishments* (EPA Form 3540-16) which was due March 1, 2002. The failure to report is a violation of Section 7(c)(1) of FIFRA, 7 U.S.C. § 136e(c)(1), and the implementing regulations at 40 CFR § 167.85(d). These reporting requirements are applicable to the facility referenced above, which is registered to operate under the subject EPA Pesticide-Producing Establishment Registration Number. Violations of the aforementioned statutory and regulatory requirements are subject to civil enforcement action by EPA under Section 14(a) of FIFRA, 7 U.S.C. § 136l(a), in conjunction with the Civil Monetary Inflation Adjustment Rule, 61 Fed. Reg. 69360, under which violators may be assessed a civil penalty of up to \$5,500 per violation and/or termination of their pesticide-producing establishment registrations by EPA.

EPA is affording you an opportunity to show cause why EPA should not take further enforcement action with respect to this violation, including termination of the pesticide-producing establishment registration. A meeting with EPA may be held on a mutually convenient date via telephone conference or at the Region 4 office in Atlanta, Georgia. You or your representative should be prepared to provide all relevant information with documentation pertaining to the violation. If you wish to take advantage of this opportunity, please contact Phillip Beard of the EPA Region 4 staff at (404) 562-8964 within 10 business days from the date of this letter.

In the event you do not respond to this notice, please be assured that all necessary measures will be taken to preclude any production not in compliance with FIFRA or the regulations. Please contact Phillip Beard of the EPA Region 4 staff at (404) 562-8964 if you have any questions.

Sincerely,



Jeaneanne M. Gettle  
Chief  
Pesticides Section

Enclosure

EPA

United States  
Environmental Protection Agency  
Washington, DC 20460FORM APPROVED  
OMB NO. 2070-0078Pesticide Report for Pesticide-Producing and Device-Producing Establishments  
Section 7, Federal Insecticide, Fungicide, and Rodenticide Act, (7 U.S.C. 136e)

Note: Read all instructions before completing. Production and distribution/sales volumes information reported on this form is treated as business confidential.

1. Mailing Address <b>P.O. Box 540</b>		072510-GA-001		ANNUAL	
2. City <b>Millen</b>		JOHN C WILSON CO INC			
3. State or Country <b>GA.</b>		4. Zip Code <b>30442</b>		1110 OLD SYLVANIA RD	
5. Name of Establishment Officer <b>ALORACE WEATHERS BY III</b>				MILLEN	
6. Title <b>MANAGER</b>		7. Date (Mo., Day, Year) <b>7-19-02</b>		GA 30442	
14. Telephone Number <b>(478) 982-5454</b>		18.			
16. Signature of Establishment Officer <i>Alorace Weather</i>					

## PESTICIDE PRODUCTION INFORMATION

17. Product Code (If "4" and chemical, slash formulation per instructions. If "4" and Device, go to item 18)		<input type="checkbox"/>		18. EPA Product Registration Number <b>524-512</b>	
19. Product Name <b>Roundup Ultra Max</b>		20. Product Classification <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>			
21. Product Type <input checked="" type="checkbox"/>		22. Market Sold To <input type="checkbox"/>		23. Use Classification <input checked="" type="checkbox"/>	
24. Unit of measure: P=Pound G=Gallons K=Kilograms L=Liters T=Tons U=Units		<input checked="" type="checkbox"/>			
25. Amount Produced, Repackaged or Relabeled Last Year		[2001]		<b>6048</b>	
26. Amount Sold or Distributed Last Year - US		[2001]		<b>6048</b>	
27. Amount Sold or Distributed Last Year - Foreign		[2001]		<b>0</b>	
28. Amount To Be Produced, Repackaged, Relabeled This Year		[2002]		<b>5000</b>	
17. Product Code (If "4" and chemical, slash formulation per instructions. If "4" and Device, go to item 18)		<input type="checkbox"/>		18. EPA Product Registration Number	
19. Product Name		20. Product Classification <input type="checkbox"/> <input type="checkbox"/>			
21. Product Type <input type="checkbox"/>		22. Market Sold To <input type="checkbox"/>		23. Use Classification <input type="checkbox"/>	
24. Unit of measure: P=Pound G=Gallons K=Kilograms L=Liters T=Tons U=Units		<input type="checkbox"/>			
25. Amount Produced, Repackaged or Relabeled Last Year		[2001]			
26. Amount Sold or Distributed Last Year - US		[2001]			
27. Amount Sold or Distributed Last Year - Foreign		[2001]			
28. Amount To Be Produced, Repackaged, Relabeled This Year		[2002]			
17. Product Code (If "4" and chemical, slash formulation per instructions. If "4" and Device, go to item 18)		<input type="checkbox"/>		18. EPA Product Registration Number	
19. Product Name		20. Product Classification <input type="checkbox"/> <input type="checkbox"/>			
21. Product Type <input type="checkbox"/>		22. Market Sold To <input type="checkbox"/>		23. Use Classification <input type="checkbox"/>	
24. Unit of measure: P=Pound G=Gallons K=Kilograms L=Liters T=Tons U=Units		<input type="checkbox"/>			
25. Amount Produced, Repackaged or Relabeled Last Year		[2001]			
26. Amount Sold or Distributed Last Year - US		[2001]			
27. Amount Sold or Distributed Last Year - Foreign		[2001]			
28. Amount To Be Produced, Repackaged, Relabeled This Year		[2002]			

CONTINUED ON ATTACHED SHEET ( )

THIS IS PAGE \_\_\_\_ OF \_\_\_\_

EPA Region	EPA Office	Preparer's Name or Report Recipient's Name	Date Reported	29. Reporting Year <b>2001</b>
------------	------------	--	---------------	-----------------------------------



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

JUL 15 2002

4APT-PS

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Horace Weathersby, III  
John C. Wilson Co.  
1120 Old Sylvania Road  
Millen, GA 30442

SUBJ: Notice of Intent to Terminate Establishment Registration  
John C. Wilson Co.; Millen, Georgia  
EPA Establishment No.: 072518-GA-001

Dear Mr. Weathersby:

You are hereby advised of the intention of the United States Environmental Protection Agency (EPA) to terminate the registration of the above-referenced establishment, pursuant to 40 CFR § 167.3 and Section 7 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136e. This Notice of Intent to Terminate is issued in response to your failure to submit the calendar year 2001 *Pesticide Report for Pesticide-Producing Establishments* (EPA Form 3540-16). A copy of the report form is enclosed and may also be found on the Internet at <http://www.epa.gov/region4/air/pesticides/pestreport.htm>.

Your failure to file the required report by the due date has already subjected you to the civil penalty provisions of FIFRA as set forth in the Notice of Opportunity to Show Cause. Failure to submit the required report within 20 calendar days from the date of this notice will result in the termination of your establishment registration. Termination of your establishment registration will be effective upon the issuance by this office of a Notice of Termination of Establishment Registration. Termination of your establishment registration would be an enforcement action, independent of any other. It is prohibited for any pesticide to be produced at an establishment unless it is registered.

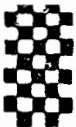
Enclosed is a copy of "U.S. EPA Small Business Resources." This document will provide you with information regarding compliance and rights you may be entitled to under the Small Business Regulatory Enforcement Fairness Act. Another document you may wish to review is the EPA Supplemental Environmental Projects Policy dated May 1, 1998, located on the Internet at <http://es.epa.gov/occe/scp/index.html>. The Policy sets forth types of projects that qualify as supplemental environmental projects, the terms and conditions under which they may become part of a settlement, and the penalty mitigation appropriate for a particular project. A hard copy of the Policy can be obtained from the contact person listed in the above paragraph.

Sincerely,



Jeaneanne M. Gettle  
Chief  
Pesticides Section

Enclosure



**John C. Wilson Company, Inc.**

Grain - Lard  
Bulk & Bagged Parts

"Trades With The Farmer"  
P.O. Box 840-Phone (614) 982-2404  
Millen, Georgia 30442

Feed - Feedlot  
Seed - Herbicide

(478) 982-5454  
FAX (478) 982-4821

*Patty*  
*Sec*

DATE 5-8-02

TO Jack Kristian

AT 912-352-0105

FROM ...GAPC

Pages to be transmitted including this page 2

NOTES For Review

- Agribusiness - EPA requested Amount Roundup they sold & he didn't respond timely. EPA now fining \$5,000 but will reduce by 20% bringing down to \$4,000 w/ 12 months to pay.
- He feels this is extreme for a report that was filed late on a harmless chemical.

*GAPC*



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

SEP 16 2002

The Honorable Jack Kingston  
United States House of Representatives  
Washington, DC 20515

Dear Congressman Kingston:

Thank you for your August 16, 2002, letter to James McDonald with the Environmental Protection Agency (EPA) regarding concerns raised by Mr. [redacted], owner of the John C. Wilson Company of Millen, Georgia. Your letter has been referred to EPA Region 4 for response. Your letter requested that the EPA respond to the concerns raised by Mr. [redacted] and provide any assistance available under applicable laws and regulations.

Because Mr. [redacted]'s comments pertain directly to a pending enforcement action, we are unable to discuss the specifics of his case. However, we hope that the following information on the pesticide producer establishment annual reporting requirements, as established in Section 7 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and EPA's enforcement and compliance assistance programs will help explain EPA's action in cases of this type.

The pesticide reporting requirements of FIFRA, added by Congress in 1972, require pesticide producing establishments to report pesticide production on an annual basis. This information is necessary to support several functions. First, the annual reports identify what products are being produced at each establishment so that inspections and sampling at the establishments can be conducted efficiently by EPA and our state partners. Second, the annual reports identify the quantity of each pesticide that is produced at the establishment, which allows for better understanding of the sale and use of pesticides for product registration assessment purposes. Third, the annual reports assist EPA in quickly determining product inventory locations so that when products are canceled, suspended, or otherwise found defective they can be removed from the marketplace and thereby the public and the environment can be protected. Establishment registration and production reporting along with pesticide product registration are critical elements in EPA's pesticide regulatory program.

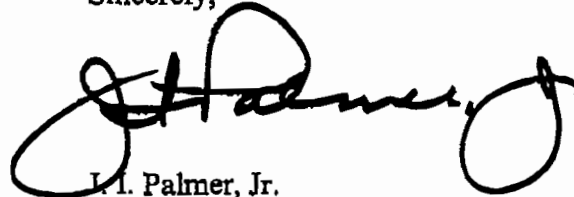
In order to assist companies in meeting these minimum obligations, EPA operates the National Agriculture Compliance Assistance Center, in Kansas City, Missouri. The center provides information on how to comply with FIFRA and other environmental statutes and can be reached at 1-888-663-2155. In addition, each year EPA makes an effort to send a copy of the required annual reporting forms to each producer establishment that submitted a report for the previous year. Our records indicate that the annual mail-out did include the John C. Wilson Company.

In establishing the penalty for failure to comply with the pesticide producer establishment annual reporting requirements, EPA takes into consideration a number of factors. A penalty is rarely assessed when the report is filed within thirty days of the due date. Additionally, EPA considers the reduction of the statutory penalty against an otherwise cooperative violator, particularly one that demonstrates a limited ability to pay. In accordance with FIFRA, EPA considers the size of the violator's business, the gravity of the violation, and the effect of the penalty on the person's ability to continue in business. Consistent with EPA's national Enforcement Response Policies, the Agency reduces a penalty by as much as 20 percent below the proposed assessment when a violator demonstrates good faith efforts to comply with its legal obligation. EPA typically provides such mitigation in situations generally comparable to that involving Mr. Black's company. We would be pleased to consider any other mitigating information Mr. Black may care to timely submit.

In summary, the goals of EPA's enforcement and compliance efforts are to help companies avoid violations, swiftly resolve environmental problems and deter future violations. Thus, the goals of our penalty policies are to provide fair and equitable treatment of the regulated community, and ensure similar enforcement responses and penalty assessments for comparable violations, yet be flexible enough to consider individual circumstances.

I hope that this information will be helpful to you in responding to Mr. Black's concerns. If you have questions or need additional information, please contact me or the EPA Region 4 Office of Congressional and Intergovernmental Relations at (404)562-8327.

Sincerely,

A handwritten signature in black ink, appearing to read "L. I. Palmer, Jr.", with a large, stylized loop at the end.

L. I. Palmer, Jr.  
Regional Administrator

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1034 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX

AL-0200397



**Congress of the United States**  
**House of Representatives**

Feb. 20, 2002

**Committee On Appropriations**

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

Congressional Liaison  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N. W.  
Washington, D. C. 20460-0001

Re: Dasher Farms Tolling Agreement  
Glennville, Georgia

Dear Mr. Krenik:

One of my constituents, Robert Dasher, has contacted me regarding a matter in which I believe you and/or your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by my constituent, and providing any assistance available under the applicable laws and regulations. The contact person on my staff for this case is Shiela W. Elliott and she can be reached in my Statesboro office at (912)489-8797.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

**Please reply to:**

**Shiela W. Elliott, Office Manager**  
**Office of Congressman Jack Kingston**  
**Federal Office Building, Room 220**  
**Statesboro, GA 30458**



Since 1945  
Route 3 • Box 35 • Glennville, Ga. 30427  
(912) 654-2118 • 1-800-662-4949 • FAX (912) 654-4976

February 12, 2002

Congressman Jack Kingston  
220 Federal Building  
52 N. Main Street  
Statesboro, GA 30458

Dear Congressman Kingston,

Please assist me in resolving the current Tolling Agreement with the EPA. Any assistance you could provide in concluding this issue would be greatly appreciated.

Should you have any questions please feel free to contact me at the number above. Thank you in advance for your assistance in this matter.

Sincerely,

Robert Dasher  
G & R Farms

Attachment (tolling agreement through March 31, 2002)



United



# Hunter Maclean

ATTORNEYS AT LAW

HUNTER, MACLEAN,  
EXLEY & DUNN, P.C.  
200 E. SAINT JULIAN STREET  
POST OFFICE BOX 9848  
SAVANNAH, GEORGIA 31412-0048

ANDREW H. ERNST  
TEL: 912.236.0241  
FAX: 912.236.4936  
DERNST@HUNTERMACLEAN.COM  
WWW.HUNTERMACLEAN.COM

December 17, 2001

## VIA FACSIMILE

Mr. Robert Dasher  
G & R Farms  
Route 3, Box 35  
Glennville, Georgia 30427

Dear Robert:

Enclosed you will find a new Tolling Agreement which extends the period through March 31, 2002.  
This is an additional three month period.

Please sign this and obtain Gerald's signature also. We then need to send the original to Atlanta.

I have a call in for Randall Humm.

Sincerely yours,  
HUNTER, MACLEAN, EXLEY & DUNN, P.C.



Andrew H. Ernst

AHE/pg  
Enclosure

(390583-1) 9263-1

## TOLLING AGREEMENT

WHEREAS, the Environmental Protection Agency ("EPA"), and Gerald W. Dasher and Robert E. Dasher, d/b/a G & R Farms, collectively referred to as the "Parties", are engaged in negotiations in an attempt to resolve alleged violations of sections 301(a), 309, and 404 of the Clean Water Act ("CWA"), 33 U.S.C. §§ 1311(a), 1319, & 1344, occurring on several tracts of property in Tattnall and Long Counties, including Tract 1450 in Tattnall County, and the Poplar Church Head Tract and Tract 154 in Long County (the "Sites"); and

WHEREAS, the undersigned representatives of the Parties certify that they are fully authorized to enter into the terms and conditions of this Agreement and to execute and bind such party to this document;

THEREFORE, the Parties, in consideration of the mutual covenants set out herein, agree as follows in order to toll the running of any applicable statute of limitations:

1. The time period between March 1, 2000 and March 31, 2002, inclusive, will not be included in computing any statute of limitations that might be applicable to the alleged CWA violations described above with regard to the Site. Gerald W. Dasher and Robert E. Dasher, and any partnership, corporation or other business entity controlled by Gerald W. Dasher and/or Robert E. Dasher, agree not to assert, plead, or raise in any fashion, whether by answer, motion or otherwise: (i) any defense or avoidance based on the running of any statute of limitations during the time period between March 1, 2000 and March 31, 2002, inclusive; or (ii) any defense or avoidance based on laches or other principle concerning the timeliness of commencing a civil action based on the failure of the United States to file a complaint with regard to the Sites during the time period between March 1, 2000 and March 31, 2002, inclusive.

2. This Agreement does not constitute any admission of liability on the part of Gerald W. Dasher, Robert E. Dasher, or any partnership, corporation or other business entity controlled by Gerald W. Dasher and/or Robert E. Dasher, nor does it constitute any admission or acknowledgment on the part of EPA that any statute of limitations is applicable to the alleged CWA violations described above or that any such statute of limitations has run. This Agreement shall not be admissible in evidence for any purpose, except for enforcement of the terms herein.

3. Notwithstanding the provisions set forth above, Gerald W. Dasher and Robert E. Dasher, or either one of them individually or through their attorney, may terminate this agreement upon thirty (30) days advance written notice to EPA of the desire to terminate. Such notice may be sent via facsimile to Paul Schwartz, Esq. (Fax: 404-562-9486) and overnight delivery to EPA at the address set forth below; and a copy to S. Randall Humm, United States Department of Justice, also served by fax (202-514-8865) and overnight mail to S. Randall Humm, United States Department of Justice, 601 D. Street, N.W., Suite 8000, Washington, D.C. 20004. In the event of such notice of termination, the tolling of any statute of limitations (or any period relevant to the defense of laches)

shall cease on the thirtieth (30th) day from the date of such notice, and the period relevant to the statute or defense shall be calculated cumulatively to exclude only the period between March 1, 2000, and the date such termination is effective.

4. This document contains the entire agreement between the Parties, and no statement, promise, or inducement not contained in this Agreement shall be valid or binding. This Agreement may not be enlarged, modified, or altered except in writing signed by the Parties.

5. This Agreement will be effective on the date it is signed by the Gerald W. Dasher and Robert E. Dasher.

FOR EPA


\_\_\_\_\_  
Date: \_\_\_\_\_

Beverly Bannister  
Acting Director, Water Management Division  
EPA Region 4  
61 Forsyth St., S.W.  
Atlanta, Georgia 30303

FOR GERALD W. DASHER

  
Date: 12-18-01  
Title: President

FOR ROBERT E. DASHER

  
Date: 12-18-01  
Title: \_\_\_\_\_



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

MAR 21 2002

The Honorable Jack Kingston  
Member, United States  
House of Representatives  
Federal Office Building, Room 220  
Statesboro, Georgia 30458

Dear Congressman Kingston:

Thank you for your letter of February 20, 2002, on behalf of Mr. Robert Dasher, of G & R Farms, of Glennville, Georgia regarding an ongoing Environmental Protection Agency Region 4 (EPA) Clean Water Act (CWA) enforcement case. Because EPA's case against the G & R Farms is ongoing, I am unable to discuss details of the case; however, I can give you an update on the status of the case.

EPA is working with the U.S. Department of Justice (DOJ) and G & R Farms' attorneys and technical consultants to negotiate a resolution of its enforcement case. Negotiations are ongoing, and we are hopeful that a resolution will be achieved. Toward that end, the Department of Justice sent a proposed Consent Decree to G & R Farms' attorneys last year, and the G & R Farms' attorneys have provided comments on the proposed Consent Decree. With the participation of G & R Farms, the parties continue to share and discuss proposed settlement terms.

To facilitate the negotiations, EPA has requested, and G & R Farms has executed, tolling agreements which allow negotiations to continue without pressure to file a complaint in federal court. The current tolling agreement expires on March 31, 2002, but EPA and DOJ will discuss another extension in light of the continuing negotiations.

If you have questions or need additional information, please contact me or the EPA Region 4 Office of Congressional and Intergovernmental Relations at (404) 562-8327.

Sincerely,

A handwritten signature in black ink, which appears to read "Michael V. Palmer", is written over the typed name. The signature is fluid and stylized, with a long horizontal stroke at the end.

J. I. Palmer, Jr.  
Regional Administrator



**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202)225-5831

BRUNSWICK OFFICE  
Federal Building, Room 304  
Brunswick, GA 31520  
(912)265-901C

**Committee On Appropriations**



**Congress of the United States**  
**House of Representatives**

July 26, 1995

AL9502705

SAVANNAH OFFICE  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912)352-0101

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912)489-8797

WAYCROSS OFFICE  
208 Tebeau Street  
Waycross, GA 31501  
(912)287-1180

The Honorable Lynn Goldman, M.D.  
Assistant Administrator, EPA  
Pesticides and Toxic Substances  
401 M Street, SW, Room EB42  
Washington, DC 20460

Dear Dr. Goldman:

I understand that the Environmental Protection Agency (EPA) is currently reviewing an application to allow the use of TEMIK brand aldicarb pesticide on potatoes grown in the Pacific Northwest and Florida and that you will be concluding this review and making a final decision in the very near future.

I also understand that new data generated by the registrant and submitted to the agency in June 1994 supports the product's re-entry into the potato market with certain label changes. I have been assured that the use of positive displacement granular application equipment (PDA) would be required by the new label and that use of this equipment virtually eliminates the occurrence of unacceptable residues in the crop. The registrant has agreed to implement an extensive and enforceable product stewardship program to alleviate any concerns the Agency may have regarding potential product misuse or misapplication. The stewardship program includes limited distribution of the product, training at all levels, certification of application equipment, and sign-off at the grower level in order to use the product.

Furthermore, I have been informed that the dietary risk methodology currently being utilized by the Agency to evaluate commodity residue data submitted by the registrant in June 1994 indicates that there is virtually zero risk to consumers of potato products.

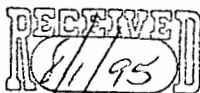
The benefits derived from TEMIK have also been well documented. Since the voluntary withdrawal of TEMIK from use on potatoes in 1990, the amount of other pesticides used by potato growers in Florida has significantly increased without achieving the level of pest control needed. A significant decrease in the quality of crops produced in Florida has been seen. The growers feel strongly that the future of TEMIK of potatoes will lead to a more effective pest management approach for Florida potatoes, an overall reduction in pesticide use, and reduced worker exposure to pesticides.

It is critical that the agency adhere to the July 31 deadline and that your final decision be based on sound, up-to-date scientific evidence. I would appreciate your advising my office of the current status of the review and keeping me apprised of your progress in reaching a decision on this very important issue.

Sincerely,

*Jack*

Jack Kingston  
Member of Congress



OPP:PSPS:ACALVERT:305-7099:AL9502705:August 10, 1995  
FAUSER\PSPS\LETS95\L9502705  
bcc: TS AL

AUG 17 1995

Honorable Jack Kingston  
House of Representatives  
Washington, DC 20515

Dear Congressman Kingston:

Thank you for your letter of July 26 concerning the Environmental Protection Agency's (EPA's) review of the use of aldicarb (Temik) on potatoes.

As you probably know, the registrant of Temik voluntarily withdrew the use on potatoes in 1989 as a result of field trials showing residues above the legal tolerance levels. The company began testing alternate application methods in order to reduce the level of residues. This has led to the registrant proposing to use positive displacement equipment only, rather than gravity equipment for applying Temik on potatoes, and using overhead rather than in-furrow irrigation. The data submitted to the Agency indicate that these changes do result in lower residue levels in potatoes. In the interim, we have also received information from growers and the National Potato Council regarding the benefits of aldicarb which has helped us evaluate the impact of losing aldicarb use on potatoes.

Currently, aldicarb is subject to a conditional registration, which prohibits its use on potatoes. The conditional registration was scheduled to expire on July 31, 1995, unless the Agency decided potato use could resume. We are still reviewing information necessary to determine whether to allow use of aldicarb on potatoes to resume. Thus, we have extended the date of the conditional registration to September 15 to allow us to complete our consideration of the matter. For example, the Agency is considering measures to be added to the potato registration to ensure that if we allow resumed use, contamination of ground water, another Agency concern, will not occur. We do understand the importance of growers knowing whether

aldicarb will be available next season. We intend to have a final decision on this matter by September 15, and I believe this small delay will enable us to resolve our remaining concerns about the potato use.

I hope this information is helpful.

Sincerely yours,

*Susan H. Wayland*

*fr* Lynn R. Goldman, M.D.  
Assistant Administrator

**JACK KINGSTON**  
1st District, Georgia  
1228 Longworth Building  
Washington, DC 20515  
(202) 225-5831

*AL-9500856*



**Congress of the United States**  
**House of Representatives**

March 9, 1995

Committee on Agriculture

Committee on Merchant  
Marine & Fisheries

**DISTRICT OFFICES:**

6605 Abercorn St., Suite 102  
Savannah, GA 31406  
(912) 352-0101

Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797

Federal Building, Room 304  
Brunswick, GA 31520  
(912) 265-9010

Thomas Henry Clarke Bldg.  
208 Tebeau Street  
Waycross, GA 31501  
(912) 287-1180

Mr. Robert Hickmott  
Associate Administrator  
Environment Protection Agency  
401 M Street, S.W.  
Washington, DC 20460

Dear Mr. Hickmott:

One of my constituents, Mr. *W. Nole* has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by Mr. Nole, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Peggy Murphy. She can be reached at (912) 287-1180.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

Please reply to:

Congressman Jack Kingston  
Thomas Henry Clarke Bldg.  
208 Tebeau Street  
Waycross, GA 31501  
ATTN: Peggy Murphy

nkunkin loc 11 02 94 1 my  
Brantley c. 12.2 12.2

NAHUNTA — When *Exple* purchased his home north of Nahunta just off U.S. 301 around Thanksgiving two years ago, he planned to live there for the rest of his life.

But circumstances have caused him to regret the purchase.

A neighbor of built a levee between the two properties, causing water to back up in the yard and stand. His septic tank run over into the water and sewage covers his yard.

"I was not told when I bought the house that the septic tank did not have a drain field," said "Look at this mess," he said as he pointed to the sewage now standing in his yard and where he had previously planted a garden.

After experiencing the problems, stopped making payments on the property, and the realtor listed his home for sale. In order to stop the sale of the home, he filed for bankruptcy.

"The company had run ads in the paper offering the home for sale," he said. "It's a mess. The house stinks. The children cannot come out into the yard for the sewage. But it's my home and I don't want to give it up."

A spokesman for the real estate company that sold the property, Caney Creek Development Co., said the drainage from the area went through the yard of the next door neighbor's property, which prompted the neighbor to build a dam to keep out the water.

" has had some problems, I know. But he let the insurance lapse about six months ago and has not paid his 1993 property taxes and made no payment on the property for six

months," said the spokesman. "We sold him the property, is' and told him it needed some work. He got the house and two acres of good land for \$20,000. It is not a branch or wetlands, but there is a natural drain through it."

"I wish he didn't have these problems," said the spokesman, "but we do have a security interest in the place."

... said he had sought help from the Brantley County Commission with no results. "The county says they cannot do

MAR 9 '95 12:28 KINGSTON/WAYCROSS

PAGE.04

hktinkin - PAGE 02

anything because it's on private property."

"We have had thousands of mosquitoes, rats and water moccasins in this yard," said "And we sure can't drink the water."

Noel said a county and state health inspector have been to the home to look at the situation, but nothing has been done to help him.

Four years ago, he got hurt doing construction work. He fell off a machine and hurt his back. He spent three months in bed last summer and is unable to do heavy work.

... said he is making attempts to contact legislators to see if anything can be done about his problem.

"So far, I'm not getting anywhere and can't get any help from anybody," said "I don't hardly know what to do next."

# Smelly Mess County Couple

sold the property, Development Co., age from the area he yard of the next 's property, which neighbor to build a l the water.

d some problems, I let the insurance months ago and has 993 property taxes ayment on the prop- months," said the "We sold him the s' and told him it work. He got the acres of good land is not a branch or there is a natural

"I didn't have these id the spokesman, e a security interest e had sought help

from the Brantley County Commis- sion with no results. "The county says they cannot do anything be- cause it's on private property."

"We have had thousands of mos- quitoes, rats and water moccasins in this yard," said Noel. "And we sure can't drink the water."

Noel said a county and state health inspector have been to the home to look at the situation, but nothing has been done to help him.

Four years ago, he got hurt do- ing construction work. He fell off a machine and hurt his back. He spent three months in bed last sum- mer and is unable to do heavy work.

Noel said he is making attempts to contact legislators to see if any- thing can be done about his problem.

"So far, I'm not getting any- where and can't get any help from anybody," said Noel. "I don't hardly know what to do next."



**RICHARD NOEL STANDS IN MIDDLE OF YARD WHERE SEWAGE BACKS UP**  
Noel Neighbor Built Levee, Backs Water Into Noel Yard On U.S. 301 North Of Nahunta

Photo By MYRA THURFT JOHNS

## Candidate Dave Baker Campaigns In Waycross



Republican Public Service Commission can- didate Dave Baker believes in fair and open competition among all communications compa- nies to provide homes and businesses with reli- able service at reasonable rates while still al- lowing suppliers an equitable return on investments.

The PSC, he said, can encourage the applica- tion of new technologies to improve efficiency, strengthen the economic infrastructure and help ensure continued growth in Georgia.

Visiting in Waycross Friday, Baker, who is

1992 bid for the Georgia House of Representatives.

"I've run a lot of horses," he said, "but this is the first time I've been the horse."

In the past, Baker said, the PSC has not been served with a high degree of professionalism. "We have people on the commission who don't realize their power. The PSC is making deci- sions that affect every utility. For too long the decisions have been made on election cam- paigns and without knowing the facts."

His opponent, Democrat Earleen Sizemore, "has never worked in the private sector," said

provide consumers with the best possible ser- vice at the best rate available, and (2) to en- courage economic development and create new jobs and foster business growth. The way to do that is to open the market for free and fair competition."

With competition in long distance phone charges, Baker said, came lower long distance rates. "I'd like to see that same kind of compet- ition in local phone service, gas companies, electric companies and certainly cable TV. The cable TV companies have a monopoly — that one bill has doubled in the last eight to 10

# Life Is Just A For Brantley C

By MYRA THRIFT JOHNS  
Staff Writer

NAHUNTA — When Richard Noel purchased his home north of Nahunta just off U.S. 301 around Thanksgiving two years ago, he planned to live there for the rest of his life.

But circumstances have caused him to regret the purchase.

A neighbor of Noel built a levee between the two properties, causing water to back up in the Noel yard and stand. His septic tank ran over into the water and sewage covers his yard.

"I was not told when I bought the house that the septic tank did not have a drain field," said Noel. "Look at this mess," he said as he pointed to the sewage now standing in his yard and where his summer garden recently grew.

After experiencing the problems, Noel stopped making payments on the property, and the realtor listed his home for sale. In order to stop the sale of the home, he filed for bankruptcy.

"The company had run ads in the paper offering the home for sale," he said. "It's a mess. The house stinks. The children cannot come out into the yard for the sewage. But it's my home and I don't want to give it up."

A spokesman for the real estate

company that Caney Creek said the drain went through door neighbor prompted the dam to keep on

"Noel has been know. But he lapse about six not paid his 1 and made no p erty for six spokesman. property 'as needed some house and two for \$20,000. 1 wetlands, but drain through i

"I wish he problems," s "but we do hav in the place."

Noel said h

## PSC



## ... Millner

(continued from page 2)  
criminals, not your guns," said



*James Walker*

FORM B91 6/90		UNITED STATES Bankruptcy Court SOUTHERN DISTRICT OF GEORGIA Case Number: 94-50572-JDW		NOTICE OF COMMENCEMENT OF CASE UNDER CHAPTER 13 OF THE BANKRUPTCY CODE, MEETING OF CREDITORS, AND FIXING OF DATES	
In re (Name of Debtor) <i>James Walker</i>		Address of Debtor ROUTE 2, BOX 424 PATTERSON, GA 31557		Soc. Sec./Tax ID Nos. SSN: 313-38-5263 EIN:  SSN: 305-46-6600 EIN:	
Addressee:		Date Filed October 25, 1994			
Name and Address of Attorney for Debtor William R. Little, III P.O. Box 177 Waycross, GA 31502		Telephone Number (912) 285-9508		Name and Address of Trustee Sylvia Ford Brown Post Office Box 10556 Savannah, GA 31412	
		Telephone Number (912) 234-5052			
FILING CLAIMS DEADLINE TO FILE A PROOF OF CLAIM: February 21, 1995 (SEE NOTICE BELOW)					
DATE, TIME, AND LOCATION OF MEETING OF CREDITORS November 22, 1994, 1:00 P.M., U.S. Courtroom, 3rd Floor, Federal Building, Carswell Street, Waycross, Ga					
FILING OF PLAN AND DATE, TIME, AND LOCATION OF HEARING ON CONFIRMATION OF PLAN The debtor has filed a plan. The plan or a summary of the plan is enclosed. Hearing on confirmation will be held: March 22, 1995, 10:00 A.M., U.S. Courtroom, 3rd Floor, Federal Building, Carswell Street, Waycross, Ga					
<p>COMMENCEMENT OF CASE. An individual's debt adjustment case under chapter 13 of the Bankruptcy Code has been filed in this court by the debtor or debtors named above, and an order for relief has been entered. You will not receive notice of all documents filed in this case. All documents filed with the court, including lists of the debtor's property and debts, are available for inspection at the office of the clerk of the bankruptcy court.</p> <p>CREDITORS MAY NOT TAKE CERTAIN ACTIONS. A creditor is anyone to whom the debtor owes money. Under the Bankruptcy Code, the debtor is granted certain protection against creditors. Common examples of prohibited actions by creditors are contacting the debtor to demand repayment, taking action against the debtor to collect money owed to creditors or to take property of the debtor, and starting or continuing foreclosure actions, repossession, or wage deductions. Some protection is also given to certain codebtors of consumer debts. If unauthorized actions are taken by a creditor against a debtor, or a protected codebtor, the court may penalize that creditor. A creditor who is considering taking action against the debtor or the property of the debtor, or any codebtor, should review §§ 362 and 1301 of the Bankruptcy Code and may wish to seek legal advice. The staff of the clerk of the bankruptcy court is not permitted to give legal advice.</p> <p>MEETING OF CREDITORS. The debtor (both husband and wife in a joint case) is required to appear at the meeting of creditors on the date and at the place set forth above in the box labeled "Date, Time, and Location of Meeting of Creditors" for the purpose of being examined under oath. Attendance by creditors at the meeting is welcomed, but not required. At the meeting, the creditors may examine the debtor and transact such other business as may properly come before the meeting. The meeting may be continued or adjourned from time to time by notice at the meeting, without further written notice to the creditors.</p> <p>PROOF OF CLAIM. Except as otherwise provided by law, in order to share in any payment from the estate, a creditor must file a proof of claim by the date set forth above in the box labeled "Filing Claims." The place to file the proof of claim, either in person or by mail, is the office of the clerk of the bankruptcy court. Proof of claim forms are available in the clerk's office of any bankruptcy court.</p> <p>PURPOSE OF A CHAPTER 13 FILING. Chapter 13 of the Bankruptcy Code is designed to enable a debtor to pay debts in full or in part over a period of time pursuant to a plan. A plan is not effective unless approved by the bankruptcy court at a confirmation hearing. If the plan is not confirmed, the court will consider dismissal of the case without further notice or hearing. Creditors will be given notice in the event the case is dismissed or converted to another chapter of the Bankruptcy Code.</p> <p>OTHER MATTERS. At confirmation the court will conduct a hearing on any objections to debtor's claim of exemptions, and any motion to value collateral or to avoid liens as set forth in the plan. Objections to the plan, valuation or lien avoidance shall be filed 5 days prior to confirmation. Copy of debtor's plan is shown on the reverse side.</p>					
For the Court:		Mary C. Becton Clerk of the Bankruptcy Court		October 27, 1994 Date	

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIAIn re: EXPL

Case No. \_\_\_\_\_

Social Security No. EXPLCHAPTER 13 PLAN AND MOTION

1. The debtor or the debtor's employer shall pay to the trustee the sum of \$ 25 weekly  
for 60 months. bi-weekly,  
semi-monthly,  
monthly,

2. From the payments so received, the trustee shall make disbursements as follows:

(a) The priority payments required by 11 U.S.C. §507.

(b) Secured creditors shall retain liens securing their claims. Creditors who file claims and whose claims are allowed as secured claims shall be paid the lesser of (1) the amount of their claim, or (2) the value of their collateral as set forth here:

(c) Subsequent to secured creditors, dividends to unsecured creditors who file claims and whose claims are allowed (including the unsecured balance of any partially secured debt) shall be paid

check one: ( ) 1. in the following percentage \_\_\_\_\_, or

(X) 2. pro-rata, from remaining funds in an amount to be estimated at confirmation.

3. Debtor shall make regular post-petition payments as they become due to creditors (named below) holding security interest in debtor's residence. Any claim filed for pre-petition arrearage on such obligation shall be paid by distributions from the Chapter 13 Trustee.

4. Other provisions:

5. The following leases and executory contracts of the debtor are rejected/accepted:

6. Pursuant to 11 U.S.C. §522(f) the liens of the following creditors on the property of the debtor are voided upon confirmation of the Plan to the extent that such liens impair an exemption claimed by the debtor.

Coastal Bank of Georgia Household Finance Corp.

7. The collateral securing the debts of the following creditors will be surrendered in full satisfaction of these debts upon confirmation of the Plan set forth here (show creditor):

8. Debtor is unable to pay filing fees and proposes the filing fee be paid in installments within the time provided by law. No monies have been paid or transferred to attorney herein for services in this case or any pending bankruptcy and none will be paid or transferred until the filing fee is paid.

Attorney fees & filing fees to be paid through plan

9. Debtor requests the Courts to permit a longer period of plan payments than three years, but not to exceed five years pursuant to provisions of 11 U.S.C. §1322(c).

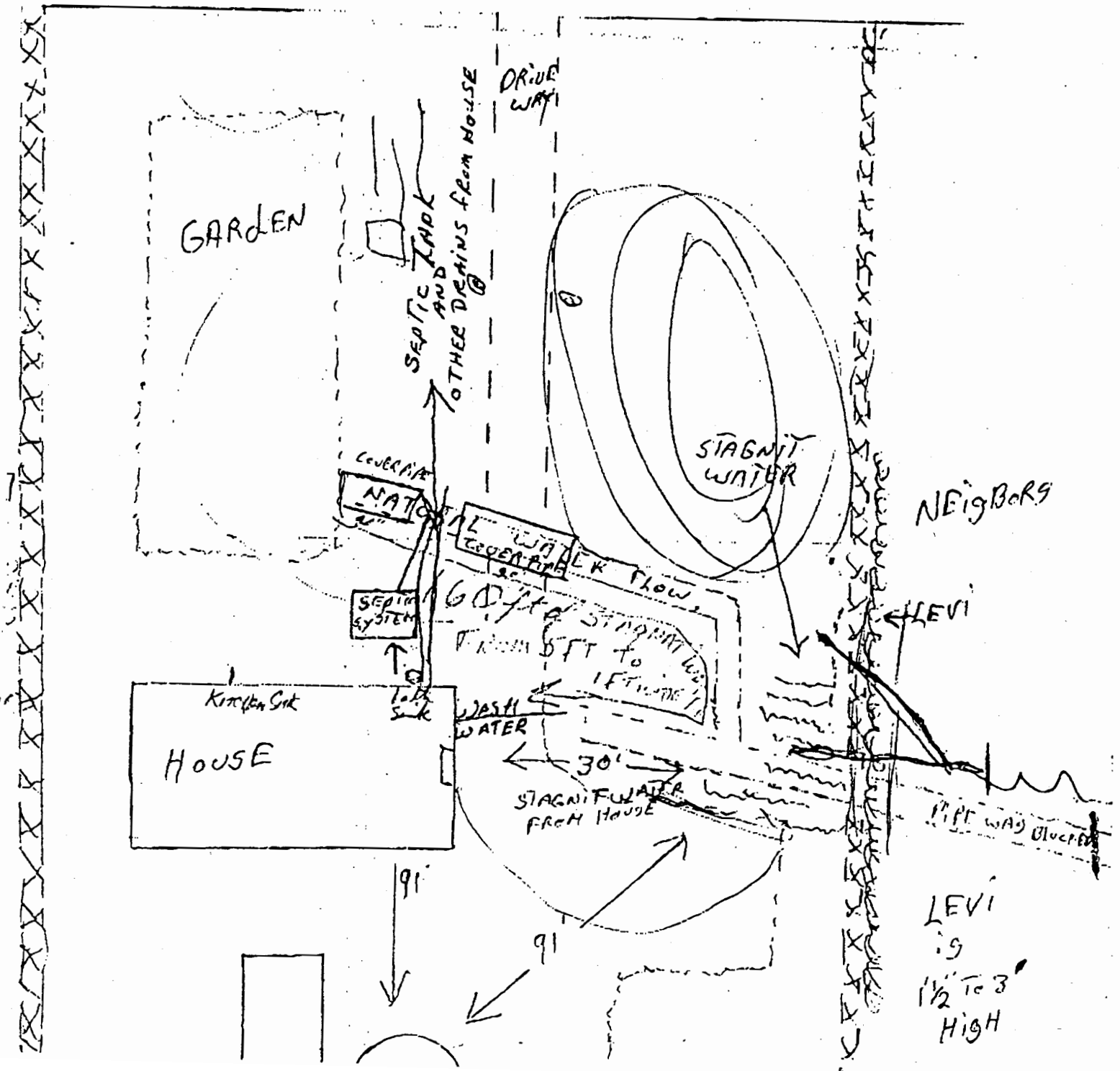
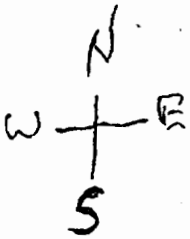
60 months

10. Debtor hereby moves the court to approve the values set forth in Paragraph 2(b) and avoid the liens as set forth in Paragraph 6 at the time of the Confirmation Hearing.

EXPL  
Debtor

EXPL  
Debtor

Date: 10/15/94

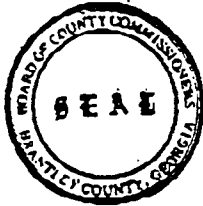




WELL

120 FT. TO 200 FT.  
UNDER WATER OVER  
HALF OF GARDEN  
UNDER WATER  
AND  
DRIVEWAY UNDER  
WATER

XXXXXXXXXXXX



Electrical Permit

No 1550

BRANTLEY COUNTY, GEORGIA

Permission is hereby given to OREDC  
to provide temporary or permanent electrical service to 4x4  
whose address is 328 the property being located  
Hortense

under and subject to the provisions and requirements of the "Electrical Permit Ordinance" of Brantley County.

Date

11-9-92  
Home

Henry M. ...  
County Clerk, Board of Commissioners  
Brantley County, Georgia

M. ...

**JOE HAMMILL**  
ATTORNEY AT LAW  
512 "G" STREET  
BRUNSWICK, GA 31520

OFFICE: (912) 265-1975

FAX: (912) 265-8214

November 21, 1994

William Robert Little, III, Esquire  
319 Albany Avenue  
Waycross, Georgia 31502-0177

Dear Mr. Little:

This letter is to inform you and the Trustee of the U.S. District Bankruptcy Court that I have been retained by Mr. and Mrs. *Epelle* to represent them in their claim for damages relative to their residence in Brantley County regarding:

- a) The septic tank and drainfield which were improperly installed and signed off by the County Health Department as being properly installed;
- b) The house which was sold to the Noel's with the same improperly installed septic tank and the drainfield that is improperly running onto adjoining land;
- c) The fact that neither the improperly installed septic system nor the drainage field were discussed at the sale/purchase of the residence.

The *Epelle* specific claims for damages appear to involve the developer, Caney Creek Development, Inc., Ivey Johns, the Brantley County Health Department, and the adjoining landowner, Phillip Cruce. We have given the parties and entities notice of our intention and anticipate that we will be filing suit in this matter within the next week. If I can be of further assistance in this matter in the interim, please do not hesitate to call me.

Sincerely,

  
R. Joseph Hammill

RJH/lap



## GEORGIA DEPARTMENT OF HUMAN RESOURCES



Leonard Sweat  
Program Specialist

1101 Church Street, Waycross, Georgia 31501  
Telephone 912-285-6023

October 21, 1994

Mr. *Exp 4*

Patterson, Ga 31557

Dear Mr. *Exp 4*

This letter is in reference to the problems you have been experiencing with your septic tank and the surface water backing up on your property due to the levee placed just below your property line.

It is obvious your septic tank drainfield is not working, which is further compounded by the surface waters which use to drained through your neighbor's yard before he built the levee. The only way you can drain your property is with some ditching on the side of your property to the road. I have talked to the county road department about fixing the ditches in front of your house. I'll keep in touch with them to see if this can be done. In the meantime, you will need to make plans to get a septic tank repair permit from the Brantley County Health Department.

We will work with you concerning these problems and hopefully we can correct your predicament. I will be in touch with you to see how things are going.

Sincerely,

Leonard Sweat  
Program Manager

LS/cd

cc: Ted Holloway, M.D.  
Danny Strickland, Brantley County Health Department



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

345 COURTLAND STREET, N.E.  
ATLANTA, GEORGIA 30365

MAR 24 1995

Honorable Jack Kingston  
Member, United States  
House of Representatives  
Thomas Henry Clarke Bldg.  
208 Tebeau Street  
Waycross, Georgia 31501

Dear Congressman Kingston:

Thank you for your letter dated March 9, 1995, on behalf of Mr. *Exple*. Mr. *Exple* believes that his septic tank located at his residential property in Nahunta, Georgia was improperly installed without a drainfield.

The Environmental Protection Agency (EPA) Region 4's Ground Water Protection Program takes a non-regulatory approach to protecting the Southeast ground water resources. We work in partnership with Region 4's eight states to implement the Wellhead Protection Program, Sole Source Aquifer Program, Comprehensive State Ground Water Protection Program, and other ground water protection activities.

Unfortunately, EPA does not regulate residential septic tanks and drainfields. After a discussion with the Georgia State Geologist, Dr. William McLemore, the State does not regulate residential septic tanks either. However, this case is within the jurisdiction of Brantley County and resolution should be sought through that office. Please contact Mr. Danny Strickland or Mr. Bob Brooker of the Brantley County Health Department at (912) 462-6165 for assistance.

If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

*Patrick M. Tolkin*  
John H. Hankinson, Jr.  
Regional Administrator



**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1034 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226 2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX



**Congress of the United States**  
**House of Representatives**

March 19, 2001

**Committee On Appropriations**

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

Mr. John Reeder  
Deputy Assoc. Admin. of Congressional Affairs  
Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington, DC 20460

Dear Mr. Reeder:

One of my constituents, Mr. *Exple* has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by my constituent, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Bruce Bazemore. He can be reached at (912) 352-0101.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

Reply to: Bruce Bazemore  
Congressman Jack Kingston  
6605 Abercorn St., Suite 102  
Savannah, GA 31405

3-1-86

TO: THE HONORABLE JACK KINGSTON

FROM:

EXPL

JAVANNAH, GA 31404

DEAR SIR:

I HAVE ALWAYS BEEN CONCERNED ABOUT THE ENVIRONMENT BUT I HAVE ~~BEEN~~ CONFUSED BY WHAT THE EXPERTS HAVE SAID. OVERTHE YEARS I HAVE DISCOVERED THAT MANY OF THE EXPERTS HAVE THEIR OWN AGENDA. I CAN ONLY HOPE THAT THIS OR SOME FUTURE GENERATION WILL BE LESS BIASED

I READ IN THE NEWSPAPERS THAT THE EPA WAS GOING TO RESTRICT THE POLLUTION ON PIERCE TRUCKS. THIS BRING ME TO THE QUESTION I WOULD LIKE YOU TO LOOK INTO.

I AM A WASHINGTON D.C. NATIVE AND LIVED IN THAT AREA MOST OF MY LIFE. I WAS A NOCTURNAL PERSON AND I RELIGIOUSLY WATCHED "NIGHT LINE" WITH TED KOPPEL. IN ONE OF HIS SEGMENTS HE MENTIONED THAT HE WAS GOING TO HAVE A LIVE BROADCAST OF THE OPENING OF THREE CASKETS IN ST MARYS CITY, MD. THEY WERE BELIEVED TO BE FROM THE 17TH CENTURY AND THE UNUSUAL ASPECT OF THE CASKETS WERE THAT THEY WERE LEAD LINED. THESE PEOPLE WERE WEALTHY AND MAYBE RELATIVES OF LORD BALTIMORE. THE LEAD LINING ALSO MEANT THAT THERE WAS THE POSSIBILITY THAT THEY HAD BREATHED IN 17TH CENTURY AIR. THIS WAS BEFORE THE INDUSTRIAL

THE SHOW WAS Aired AROUND THE SPRING OF 1992 IN A NOT FURTHER OF THE DATE IT WAS A LIVE BROADCAST AT THE SCENE IN ST MARYS CITY. MR KOPEL HAD JUST MOVED TO ST MARYS COUNTY MARYLAND SHORTLY BEFORE AND I HAD HEARD THAT HIS HOUSE WAS SET UP TO BE ABLE TO BROADCAST FROM HIS HOME. I MENTIONED THAT TO HELP WITH THE DATE.

IN THE BROADCAST IT SHOWED THAT THE SMALLER CASKET, THERE WERE THREE SIZES, WAS A YOUNG BOY BUT THE LEAD LINING WAS CRACKED. HE WAS WELL PRESERVED THE NEXT CASKET WAS CHECKED AND IT WAS NOT SEALED EITHER. I FORGOT TO MENTION THAT THERE WERE PEOPLE FROM PATUXENT NAVAL AIR STATION WHO HAD TO RECOVER AIR FROM WITHIN THE CASKETS IF ANY OF THEM WERE COMPLETELY SEALED. THEY HAD THE EQUIPMENT TO PUMP IT OUT AND CANISTER TO PUT THE AIR IN. THE SECOND CASKET WAS A WOMAN WHO WAS WELL PRESERVED CONDITION WITH RIBBONS IN HER HAIR. THERE WAS ALSO POWDER AND OTHER THINGS IN THE ~~CASKET~~ CASKET LIKE SEEDS & LEAVES. THE THIRD CASKET WAS THE CHILD. IT APPEARED TO BE COMPLETELY SEALED. THE AIR RECOVERY TEAM FROM PATUXENT WAS ABLE TO RECOVER 2 LITERS (?) OF AIR IN 2 CONTAINERS. THE VIEWERS COULD HEAR THE PUMP AND THERE WAS MENTIONED BY MR KOPEL THAT THE CONTAINERS WOULD BE SENT TO THE EPA. IT WAS ALSO MENTIONED THAT ONLY ONE CONTAINER WAS NEEDED THEY THEN OPENED THE THIRD CASKET. IT CONTAINED AN ADULT MALE. HE WAS WELL PRESERVED ALSO. MR KOPEL CLOSED THE SEGMENT BY SAYING THAT HE WOULD REPORT BACK ON THE RESULTS ON THE AIR. THIS AIR COULD BE USED AS A BENCHMARK ON ZERO POLLUTION.

I NEVER SAW A FOLLOWUP ON THIS BROADCAST.  
I DIDN'T SEE ANYTHING IN THE NEWS OR NEWSPAPERS ABOUT  
WHAT THEY HAD FOUND OUT ABOUT THIS 17<sup>TH</sup> CENTURY AIR.  
IS THE EPA HIDING THE RESULTS OR DID THEY EVEN CHECK IT  
OUT.

I WOULD THINK THIS WOULD BE FRONT PAGE NEWS.  
I WAS NOT SURE HOW LONG IT WOULD TAKE TO TEST THE AIR  
BUT IT'S BEEN A LONG TIME I HADN'T SEEN ANYTHING ABOUT  
IT. IF IT WAS TESTED THEN THEY (EPA) WOULD HAVE A  
MARKER FOR ZERO MANMADE POLLUTION. I WOULD THINK  
THAT ALL THE NETWORKS WOULD REPORT THE POLLUTION  
INDEX OF PRE-INDUSTRIAL REVOLUTION ~~WAS~~ A SCALE  
COULD HAVE BEEN DEVELOPED BY THE EPA AND THE NEWS.  
WEATHERMAN COULD INCLUDE IT IN HIS REPORT ON POLLUTION  
OTHER THEN POLLEN, GASES ETC.

CONGRESSMAN KINGSTON, I THINK IF THEY (EPA)  
HAVE TESTED THIS AIR, THAT THE PUBLIC SHOULD KNOW THE  
RESULTS. I KNOW THERE WAS POLLEN + OTHER THINGS IN THE  
CASKET AND PROBABLY IN THE AIR BUT THEY CAN INDEX THAT OUT.  
I'D APPRECIATE ANY HELP YOU CAN GIVE IN THIS MATTER.

CURIOUSLY YOURS

EXPL



**Diane Hicks**

04/17/2001 04:25 PM

To: Myrtle Lashley/DC/USEPA/US@EPA

cc:

Subject: AL-0100640 - Representative Kingston

I placed a call to the staffer, Bruce Bazemore to discuss. The Nightline show referred to was in November 1992. The coffin air samples were to be analyzed by NASA not EPA. EPA had no role here. Bruce will refer the constituent letter to NASA. No written response needed from EPA and file can be closed out. ORD will be sending folder back to you with note to the effect that I discussed case with the staffer.

Thanks

JACK KINGSTON  
1st District, Georgia

WASHINGTON OFFICE  
1034 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX

AL-0002122



Congress of the United States  
House of Representatives

September 29, 2000

Committee On Appropriations

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

Mr. Bob Martin, Ombudsman  
Environmental Protection Agency  
Office of the Ombudsman  
1200 Pennsylvania Ave. NW Mail Code 5101  
Washington, D.C. 20460

Dear Mr. Martin,

It is my understanding that in your role as Ombudsman at the Environmental Protection agency you assess work at Superfund sites to determine if the law and agency regulations are being followed. Among the areas I understand you investigate are remedy selection and the procedures for selection remedies at Superfund sites.

There is a site in Brunswick, Glynn County, Georgia, the Hercules 009 Landfill Superfund Site, CERCLIS ID # GAD980556906, which has been particularly controversial over the previous several years.

The Glynn Environmental Coalition, a coalition of citizens concerned about the environment, as well as other residents in the area, have considerable concerns that public health may be at risk due to EPA's changes to the selected remedy for this Site. They are concerned that this would leave contaminated material free to move and further threaten human health during the decades the Site is expected to remain toxic. According to representatives from the Glynn Environmental Coalition, even though EPA officials offered to mediate the concerns of the community, the EPA withdrew from mediation.

On behalf of these citizens, I would like to ask you, in your capacity as Ombudsman, to review and assess EPA Region IV's activities at the Hercules 009 Landfill Superfund Site as a potential Ombudsman case.

Thank you for your time and assistance in this matter.

Sincerely,

Jack Kingston  
U.S. House of Representatives



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT 24 2001

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

The Honorable Jack Kingston  
U. S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Kingston:

Thank you for your September 29, 2000, letter to Mr. Robert J. Martin, the Office of Solid Waste and Emergency Response National Ombudsman, requesting that he conduct an investigation of the Environmental Protection Agency's (EPA) cleanup activities at the Hercules 009 Landfill Superfund site in Brunswick, Georgia. I understand you requested this assessment on behalf of the Glynn Environmental Coalition, and other residents living in the Brunswick area.

In a recent letter to the U. S. General Accounting Office (GAO), Mr. Martin listed the Hercules 009 Landfill Superfund site investigation as part of his ongoing work. I am enclosing a copy of this letter for your information and I hope it addresses your concerns. If you have any additional questions please contact Mr. Martin at (202)260-9361.

Thank you for your interest in the Superfund program.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Marianne L. Horinko", is written over a horizontal line.

Marianne Lamont Horinko  
Assistant Administrator

enclosure

AUGUST 29, 2001

AC-0101777

TO: Hon. Jack Kingston

Re: telephone conversation with Trish on mourning of  
8-29-01

This letter is to confirm our telephone conversation with Trish concerning an old City landfill in Woodbine, Ga.

I recently observed what appeared to be city and state people placing flags as an indication that some sort of digging was imminent.

Due to the fact that my property adjoins this property and I have recently heard that there may be hazardous materials dumped there, and I have not been advised or informed by any local or state officials, I would like to request that you see that the proper Federal officials be asked to come in and address this situation.

Thank you very much for your help in this matter.

Sincerely,

EXP. 6

Woodbine, Ga. 31569

on Big Satilla River  
was told by EPA to contact  
Army Corps.





## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

OCT 10 2001

The Honorable Jack Kingston  
Member, United States  
House of Representatives  
6605 Abercorn Street, Suite 102  
Savannah, GA 31405

Dear Congressman Kingston:

Thank you for your letter dated September 6, 2001, on behalf of Mr. <sup>EXP. 6</sup> Woodbine, Georgia, concerning recent grading work being performed at the Woodbine, Georgia 'old city landfill' adjoining his property.

Subtitle D of the federal Resource Conservation and Recovery Act (RCRA) establishes the framework for federal, state and local government cooperation in controlling nonhazardous solid waste. The EPA's role in this arrangement is to establish the overall regulatory direction, develop minimum national standards for protecting human health and the environment from the effects of solid waste disposal and provide technical assistance to state and local governments for planning and developing sound solid waste management programs. States are responsible for the permitting of solid waste treatment and disposal facilities and enforcing state solid waste management regulations and facility permit conditions. Local governments are responsible for planning, developing and operating solid waste collection and disposal programs. The intent of the Act is to leave solid waste management decisions in the hands of state and local authorities. This arrangement makes state and local officials fully responsible to their constituents for local decisions on these matters.

In an effort to be of assistance to you and Mr. <sup>EXP. 6</sup> EPA Region 4 Solid Waste staff contacted the Georgia Department of Natural Resources, Environmental Protection Division (GA EPD) and the City of Woodbine City Administrator to determine the current situation. According to these sources, the old city landfill in Woodbine has been closed for about 30 years. Based on routine water quality testing from the Big Satilla River which adjoins the landfill, there are no hazardous contaminants leaching from the site. The owner of the landfill has recently performed grading work at the site that disturbed a nearby wetland. The owner is currently working with the GA EPD to reestablish the preexisting wetland boundaries.

For additional information or questions concerning the status of activities at the site, we suggest you contact:

Ms. Sandy Rayson, City Administrator  
City of Woodbine  
912/576-3211


2

or

Mr. Stuart Stevens  
GA EPD  
912/264-7284

If you have questions or need additional information from EPA, please contact me or the  
Region 4 Office of Congressional and Intergovernmental Relations at (404) 562-8327.

Sincerely,



A. Stanley Meiburg  
Acting Regional Administrator

cc: Sandy Rayson, City of Woodbine  
Stuart Stevens, GA EPD

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1034 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX



*AK-010261*

**Congress of the United States**  
**House of Representatives**  
July 2, 2001

**Committee On Appropriations**

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

Mr. John Reeder  
Deputy Assoc. Admin. of Congressional Affairs  
Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington DC 20460

Dear Mr. Reeder:

One of my constituents, Mr. *Wheeler*, has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by my constituent, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Brian Dart. He can be reached in my Statesboro office at (912)489-8797.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

Reply to: Brian Dart  
Congressman Jack Kingston  
220 Federal Bldg.  
Statesboro, GA 30458

JACK KINGSTON  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
806 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX



Committee On Appropriations

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

## Congress of the United States

House of Representatives

## PRIVACY ACT FORM

"Pursuant to the requirements of the Privacy Act, Public Law 93.579, I grant Congressman Jack Kingston and his staff access to my records so that they may assist me with my case."

Date 4/6/01Name Exple

Address

City BrookletState Ga.Zip Code 30415Telephone Number (home) ExpleWork ExpleSocial Security Number Exple

Agency Case Number \_\_\_\_\_

SIGNATURE Exple

Description of request to Congressman Jack Kingston's Office

Epa tank Closures  
I need to know if compensation  
is possible for devaluation of  
property due to EPA tank  
closures.

Need Help!



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 31 2001

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

The Honorable Jack Kingston  
220 Federal Building  
Statesboro, GA 30458

Dear Congressman Kingston:

Thank you for your inquiry of July 2, 2001 regarding questions raised by Mr. *Goyle* concerning the potential for compensation for the devaluation of property due to tank closures. Please allow me to provide you with a brief background of the regulations affecting underground storage tanks.

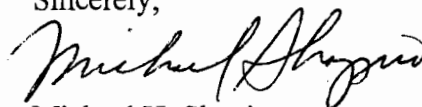
In 1984, Congress responded to the increasing threat to groundwater from leaking underground storage tanks by adding Subtitle I to the Resource Conservation and Recovery Act. This section of law required the Environmental Protection Agency to develop a comprehensive regulatory program for underground storage tanks. EPA promulgated regulations in 1988.

Under EPA's regulations, underground storage tanks had to be protected against spills, overfills and corrosion, which are common sources of releases, by December 1998. Owners and operators had a variety of ways to comply. They could replace substandard underground storage tanks with new ones or upgrade them by retrofitting them with a corrosion protection system and with spill containment and overfill protection devices, or close them.

As part of the closure process, if contamination is discovered at the underground storage tank site, the owner or operator is required to follow state procedures for reporting, assessing, and cleaning up the contamination. Many states including Georgia have developed state cleanup funds that reimburse qualified underground storage tank owners for much of the cost associated with the assessment and cleanup. If you or Mr. *Goyle* are interested in learning more about the Georgia cleanup fund, please contact the Georgia Underground Storage Tank Fund at (404) 362-2687. In the event that closure has led to the devaluation of a property's value, Congress has not given EPA authority or funding to provide compensation.

I hope this information is useful. If you have any additional questions, please contact me or your staff may contact Michele McKeever at (202) 564-3688.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Shapiro". The signature is fluid and cursive, with the first name "Michael" and last name "Shapiro" clearly distinguishable.

Michael H. Shapiro  
Acting Assistant Administrator

# Congress of the United States

## House of Representatives

Washington, D.C. 20515

AL-0100839

May 2, 2001

The Honorable Christine Todd Whitman  
Administrator  
Environmental Protection Agency  
401 M Street SW  
Washington, D.C. 20460

IN RE: Maximum Achievable Control Technology (MACT) Standard as  
Applied to Kaolin Calciners

Dear Administrator Whitman:

This letter concerns efforts by the United States Environmental Protection Agency (EPA) to develop a Maximum Achievable Control Technology (MACT) standard, that regulates air emissions for hazardous air pollutants (HAPS) from kaolin calciners.

The kaolin industry in Georgia is considered by the EPA to be part of the Clay Products Manufacturing industry; one of 174 source categories currently considered by the EPA to contribute to HAP emissions. The background document EPA published to substantiate its listing determination provides only a brief paragraph for Clay Products Manufacturing. The document states:

*"The Clay Products Manufacturing source category includes any facility engaged in manufacturing of clay products such as brick, vitrified pipe, structured clay tile, and clay refectories. The category includes but is not limited to, the following processes: grinding, screening and blending of the raw materials; cutting or forming; and drying, curing, and firing."*

As you can see, there is no mention of kaolin clays or calcining kaolin clays; and to date the EPA has not provided any information to substantiate why kaolin calciners might be considered large HAP emitters.

However, based on the scarcity of data, and to quantify and understand potential HAP emissions from kaolin calciners, the China Clay Producers Association (CCPA) ran a series of tests on a small, but typical, calciner in Sandersville, Georgia last year. The results demonstrate convincingly the two potential HAPs (hydrofluoric acid and hydrochloric acid) that could be potentially emitted in the

The Honorable Christine Todd Whitman  
May 2, 2001  
Page 2

calcinations process, were negligible. In fact, in the most extreme case, the quantities were less than 10% of the required level to be subject to the MACT.


The CCPA submitted this testing information to the EPA last year, yet in a recent meeting in Raleigh learned the EPA still insists on proposing a MACT standard that would include the kaolin calciners. While EPA acknowledged the tests the CCPA ran were very convincing, it nonetheless continues to insist on writing the MACT standard to require each company to demonstrate, with tests costing some \$50,000 each, that they should not fall under that MACT standard.

The imposition of a standard on an industry that has already demonstrated it is exempt is, at best, a gross waste of taxpayer's money, not to mention an additional considerable expense to this industry. This industry is under considerable attack now from foreign imports as well as "not-in-kind" domestic products, and can ill afford to spend money that will not serve any useful purpose.

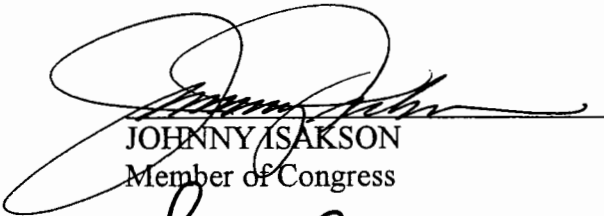
We believe any regulation must be based on some empirical data and it should fit the industry. In addition, any regulation must result in providing a benefit to the environment. We believe none of these objectives will be met in the promulgation of a MACT standard to regulate emissions for the kaolin calciners. Therefore, we respectfully request your assistance in a prompt review of this matter.

With kind regards, we are,

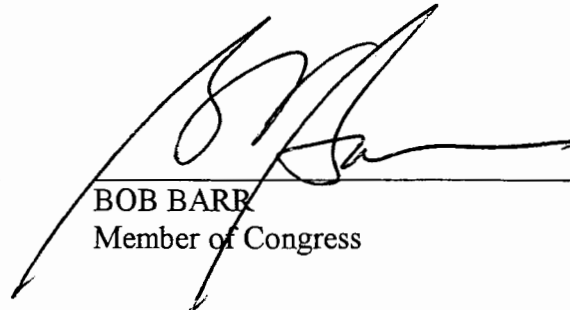
very truly yours,

  
\_\_\_\_\_  
JACK KINGSTON  
Member of Congress  
\_\_\_\_\_  
MAC COLLINS  
Member of Congress

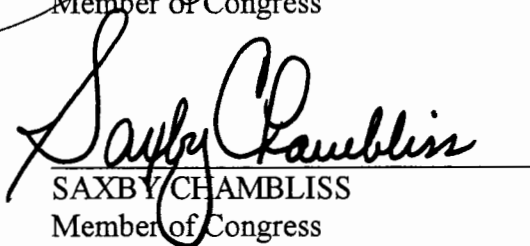




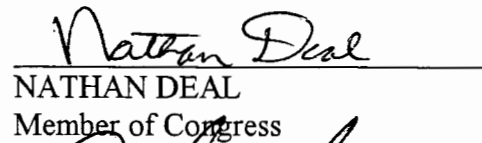
JOHNNY ISAKSON  
Member of Congress



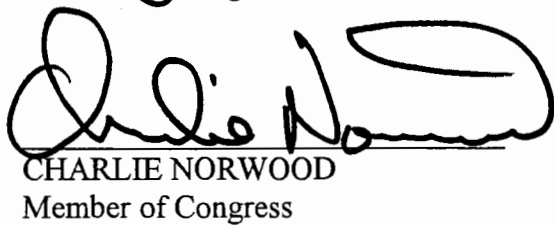
BOB BARR  
Member of Congress



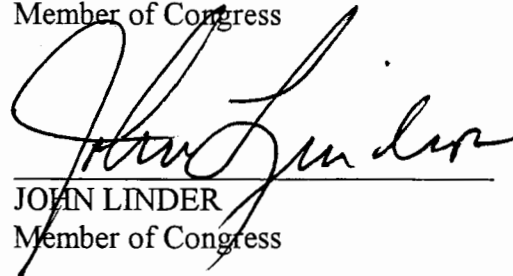
SAXBY CHAMBLISS  
Member of Congress



NATHAN DEAL  
Member of Congress



CHARLIE NORWOOD  
Member of Congress



JOHN LINDER  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUN -6 2001

THE ADMINISTRATOR

The Honorable Jack Kingston  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Kingston:

Thank you for your letter of May 2, 2001, co-signed by seven of your colleagues, making me aware of your interest in reviewing the upcoming air toxics rule for processing of clay minerals. I appreciate learning about your concerns.

As you know, we are in the process of developing the proposed rule. Over the last few years the Environmental Protection Agency (EPA) has met several times with members of the China Clay Producers Association (CCPA) and has toured a number of their facilities. The EPA and CCPA have exchanged information that includes explaining the basis and level of control for the upcoming proposed rule and discussing CCPA's test data that you mentioned in your letter. Let me assure you that we will continue our exchange of ideas and information with CCPA and other stakeholders and, in fact, are planning an additional meeting with CCPA this month.

In your letter you question whether kaolin calciners are large emitters of hazardous air pollutants (HAP) and whether a Maximum Achievable Control Technology (MACT) standard is necessary. Under the Clean Air Act, we are required to set MACT standards for "major" sources, defined by how many tons of HAP are emitted from the entire plant site. A major source of HAP is a facility that emits at least 10 tons of an individual HAP or 25 tons of total HAP. If a subset of a facility does not emit quantities of HAP that trigger the major source definition, but are located with a major source, then that subset is considered a major source for purposes of determining MACT. This approach ensures that facilities which in totality are major sources of HAP in a community, are not subdivided to such a degree that no part is ever controlled.

As you point out, kaolin calciners emit hydrofluoric acid and hydrochloric acid, which are HAP, and also emit particulate matter which includes metal HAP such as arsenic, cadmium, and lead. Because these kaolin calciners emit HAP and are located at facilities that are major sources of HAP, we believe that the Clean Air Act requires that we develop a MACT standard. We plan to continue to work with the industry to develop a MACT standard that is fair to industry and appropriate. For those reasons and as discussed on page 63028 of the enclosed November 18, 1999 *Federal Register*, calciners at clay minerals processing facilities will be added to the list of MACT major source categories.



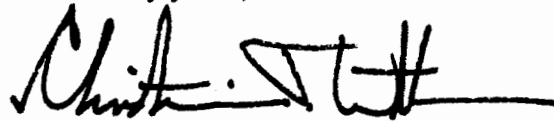
Recycled/Recyclable  
Printed with Soy/Canola Ink on paper that  
contains at least 50% recycled fiber

While the CCPA data that you mention in your letter appear to indicate low emissions from calciners, we have concerns with their emission test procedures and with the extrapolation of the results from the small tested calciner to actual production facilities. If the kaolin producers can show the pilot plant data are relevant and appropriate for their plant site, then this data, along with data on other HAP emission sources at the plant site, can be used to show the facility is not a major source and avoid the MACT standard without any additional testing. In any event, the need to determine if a facility is a major source is required under the Clean Air Act, and not a new requirement that would result from this rule.

You also requested an opportunity to review the proposed rule text before it is published in the *Federal Register*. The EPA has a long-standing policy not to release rules prior to proposal since they are subject to change during our interagency review process. We would be happy to brief you on this upcoming proposal and provide you a copy of the rule as soon as I sign it and prior to its publication in the *Federal Register*. Finally, please be assured that the rule will be subject to full public notice and comment before we make any final decisions.

I appreciate this opportunity to be of assistance and trust that this information will be helpful.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Christine Todd Whitman", with a stylized flourish at the end.

Christine Todd Whitman

Enclosure

Identical letters sent to:

The Honorable Mac Collins  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Johnny Isakson  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Bob Barr  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Saxby Chambliss  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Nathan Deal  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Charlie Norwood  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable John Linder  
U.S. House of Representatives  
Washington, D.C. 20515

OAQPS:ESD:WCPGSSHEDD/sdaniels:NCM:541-5606:05/15/01  
A:\Control AL-0100839-Kingston.wpd

JACK KINGSTON  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX



AC-9703051

# Congress of the United States

## House of Representatives

Committee On Appropriations

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

December 2, 1997

Ms. Julie Anderson  
Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington, DC 20460

Dear Ms. Anderson:

One of my constituents, Mr. Arthur Berger, has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by Mr. Berger, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Trish DePriest. She can be reached at (912) 352-0101.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

Please reply to:

Congressman Jack Kingston  
6605 Abercorn St., Suite 102  
Savannah, Georgia 31405  
ATTN: Trish DePriest

received  
CEB-9-97

# WETLAND ENVIRONMENTAL TECHNOLOGIES

Environmental and Mitigation Banking Consultants

November 25, 1997

Via Facsimile  
202 260 0279 &  
Certified Mail

Ms. Carol M. Browner, Administrator  
U. S. Environmental Protection Agency Headquarters  
Room W1200  
Mail Drop 1101  
401 M Street SW  
Washington, DC 20460

Dear Ms. Browner:

It is very difficult for me to write this letter. After seven years of working with the various resource agencies, this is the first time that I have had to go to the Washington level for a response.

I have attached my correspondence with Region 4, which is self explanatory. I received no satisfaction of any kind from the inquiry and as a matter of fact, the response has been an intensification of the injustice. We trust your knowledge of the situation will result in a positive response for support of the program.

My company has in good faith expended millions of dollars to build mitigation banks across the nation in accordance with EPA and Corps guidance for mitigation banking. We were instrumental in the development of the private multi-user mitigation banking program by permitting the first private mitigation bank in the nation. We are restoring destroyed wetlands with private funds to offset unavoidable impacts under the EPA/Corps approved permitting process and we are being thwarted at every turn by EPA personnel. All we ask is that EPA personnel follow their own rules!

The latest example is a public project in Hall County, Georgia. The applicant, Hall County, has a five acre unavoidable impact they propose to mitigate on site with over two hundred preservation credits (125 acres). In accordance with the rules, the applicant proposed an additional 12.5 credits from the Monastery Mitigation Bank, Permit #960004000. Mr. Bob Lord, EPA - Region 4, an outspoken opponent of mitigation banking, has asked for a thirty day extension and threatened to file a 404 (q), which illustrates his lack of knowledge of the 404 (q) program but further intimidates the applicant. He has stated he intends to make this a "test case" against banks being used across watersheds.

Atlanta, Georgia

6520 Powers Ferry Road - Suite 110 - Atlanta, Georgia 30339 - Telephone: (770) 541-4200 - Facsimile: (770) 541-4210

Savannah, Georgia

1205 Fifth Avenue - Tybee Island, Georgia 31328 - Telephone: (912) 786-9993 - Facsimile: (912) 786-0803

Page Two

Ms. Carol M. Browner

November 25, 1997


It is this kind of "loose cannon," private agenda unchecked by EPA management that compromises the benefits of a perfectly good environmental program. Our permit was issued with regional watershed objectives clearly addressed. Mr. Lord, in spite of our complaints to his superiors, continues to intimidate applicants with his agenda. The delays alone cost the taxpayer additional funds that could have been saved with the proper administration of the mitigation banking program, not to mention the waste of the Corps and EPA's staff time. If the Resource Agencies' employees are not going to comply with the rules established by the Federal Guidance published by the EPA and Corps in the Federal Register on Nov. 28, 1995, Vol. 60, No. 228 effective Dec. 25, 1995, then the entire program is a farce. **If EPA management cannot enforce the rules within the agency, how can we expect any program to succeed on a national basis?**

We are told you have a personal history of effective management and commitment to the environment as evidenced by your public position on air and water quality programs. We believe this program to be our most effective method of restoring destroyed wetlands and the principal path to the achievement of the President's stated goals. We hope that you share this belief. The purpose of this letter is to enlist your support of effective implementation of the mitigation banking program. We realize that the EPA must be supported in their effort to protect and improve the environment but where individual agendas compromise that intent, we cannot remain silent. We also realize that by taking this step to correct the situation, we have put our company at risk of retaliation by the personnel involved in Region Four. We are willing to take that risk because without your support our company's efforts and the worthwhile benefit to the environment will be destroyed.

Sincerely,



Arthur L. Berger  
President



Robert J. Holbrook  
Chairman

RJH:blc

cc: Necholus Ogden  
Chief Regulatory  
U. S. Army Corps of Engineers  
Savannah, Georgia

Page Three  
Ms. Carol M. Browner  
November 25, 1997

cc: John Hankinson  
Regional Administrator  
USEPA Region 4

Lorna Campbell, Chairman  
Georgia MBRT Committee  
U. S. Army Corps of Engineers  
North Area Office

Yancey McCloud  
Special Counsel to the Monastery of the Holy Ghost

W. Brooks Stillwell  
Special Counsel to Wetland Environmental Technologies

Robert J. Proctor  
General Counsel

Georgia Delegation  
(See Distribution List)



**GEORGIA DELEGATION****SENATORS:**

The Honorable Paul Coverdell  
1175 Peachtree Street  
100 Colony Square  
Suite 300  
Atlanta, Georgia 30361  
(404) 347-2202  
Fax (404) 347-2243

The Honorable Max Cleland  
Suite 1700  
75 Spring Street  
Atlanta, Georgia 30303  
(404) 331-4811  
Fax - (404) 331-5439

**REPRESENTATIVES:**

1<sup>st</sup> The Honorable Jack Kingston  
The Enterprise Building  
6605 Abercorn Street  
Suite 102  
Savannah, Georgia 31405  
(912) 352-0101  
Fax - (912) 352-0105

2<sup>nd</sup> The Honorable Sanford Bishop  
225 Pine Avenue  
Albany, Georgia 31701  
(912) 439-8067  
Fax - (912) 436-2099

3<sup>rd</sup> The Honorable Mac Collins  
173 North Main Street  
Jonesboro, Georgia 30236  
(770) 603-3395  
Fax - (770) 603-3402  
(800) REP-3-MAC

4<sup>th</sup> The Honorable Cynthia McKinney  
246 Sycamore Street  
Suite 110  
Decatur, Georgia 30030  
(404) 377-6900  
Fax - (404) 377-6909

5<sup>th</sup> The Honorable John Lewis  
100 Peachtree Street, NW  
Suite 750  
Atlanta, Georgia 30303  
(404) 659-0116  
Fax - (404) 331-0947

6<sup>th</sup> The Honorable Newt Gingrich  
3823 Roswell Road NE  
Suite 200  
Marietta, Georgia 30062  
(770) 565-6398  
Fax - (770) 565-6824

7<sup>th</sup> The Honorable Bob Barr  
999 Whitlock Avenue  
Suite 13  
Marietta, Georgia 30064  
(770) 429-1776  
Fax - (770) 795-9551

8<sup>th</sup> The Honorable Saxby Chambliss  
682 Cherry Street  
Suite 300  
Macon, Georgia 31210  
(912) 752-0800  
Fax - (912) 752-0888

9<sup>th</sup> The Honorable Nathan Deal  
P.O. Box 1015  
Gainesville, Georgia 30503  
(770) 535-2592  
Fax - (770) 535-2765

10<sup>th</sup> The Honorable Charles Norwood  
1056 Claussen Road  
Suite 226  
Augusta, Georgia 30907  
(706) 733-7066  
Fax - (706) 733-7725

11<sup>th</sup> The Honorable John Linder  
3675 Crestwood Boulevard  
Suite 530  
Duluth, Georgia 30136  
(770) 931-9550  
Fax - (770) 931-2775

# WETLAND ENVIRONMENTAL TECHNOLOGIES

Environmental and Mitigation Banking Consultants

Mr. John Hankinson  
Regional Administrator  
USEPA Region 4  
Atlanta Federal Center  
100 Alabama Street, SW  
Atlanta, Georgia 30303

10-18-97

Dear Mr. Hankinson:

As you are aware our company permitted the first multi-user private mitigation bank in the nation through the Savannah Corps District. In the last seven years we have worked with EPA and Corps personnel on a local and national basis to develop the mitigation banking guidance. W.E.T., INC. is now expanding the banking concept throughout the nation and within the next year we will have thousands of credit acres permitted for use from coast to coast. We have expanded our banking concept to include research grants for advanced wetland studies to major universities in conjunction with our bank sites. We have proudly produced two master theses here in Georgia and have begun long-range wetland studies at our Monastery site with the University of Georgia. I mention our history to assure you that we are totally committed to the mitigation-banking concept as a financial and corporate mission.

Out of courtesy and continued co-operation with your agencies, I wanted to inform you of my pending trip to Washington D.C. I will spend two weeks in the capitol in early November discussing mitigation banking with representatives of Congress and various interested EPA and Corps personnel. Obviously, our involvement in the mitigation process across the county has given us a unique perspective of its use and effectiveness. I wanted to give you an advance notice as to the comments that I intend to make pertaining to your areas of responsibility.

W.E.T., INC. believes that the final policy guidance issued in the Federal Register is innovative and if properly administered, will result in the best effort to date to provide "No net loss" and "A functional increase." We do not support the effort to legislate laws to implement mitigation banking. It is our belief that the present guidance allows individual latitude to address particular regional differences in the environment that could be lost with Federally mandated laws. Notwithstanding our support of the present system, there are some serious problems that need to be addressed. Since our principal efforts have been in Region 4 and the Savannah Corps District, we will use that experience to describe our concerns.

The system is as effective as the individuals implementing it. We met with the Corps and discussed the need for additional training. We are pleased that as a result of those meetings, the staff's understanding and implementation of the guidance has greatly increased. While we see an improvement in the use and understanding of the guidance,

Atlanta, Georgia

6520 Powers Ferry Road - Suite 110 - Atlanta, Georgia 30339 - Telephone: (770) 541-4200 - Facsimile: (770) 541-4210  
Savannah, Georgia

1205 Fifth Avenue - Tybee Island, Georgia 31328 - Telephone: (912) 786-9993 - Facsimile: (912) 786-0803



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER

61 FORSYTH STREET, SW

ATLANTA, GEORGIA 30303-8909

DEC 30 1997

Honorable Jack Kingston  
Member, United States  
House of Representatives  
6605 Abercorn Street, Suite 102  
Savannah, Georgia 30236

Dear Congressman Kingston:

Thank you for your letter of December 2, 1997, on behalf of Mr. Arthur Berger. In his letter, Mr. Berger raised concerns about Environmental Protection Agency (EPA), Region 4, actions regarding the use of the wetland mitigation bank at the Monastery of the Holy Ghost (Monastery Bank) operated by W.E.T. Inc. He also raised concerns about what he perceived as a "personal agenda" on the part of one of the EPA Wetland Section project managers.

Comment letters sent to the U.S. Army Corps of Engineers (COE) represent the position of EPA, not a particular individual. While projects are reviewed and draft letters prepared by our project managers, all letters are then carefully reviewed for technical correctness and for consistency with EPA policy by other staff members and management. All EPA comments to the COE are public documents and it is the standard procedure to courtesy copy other resource and commenting agencies, the applicant, other interested individuals and environmental/conservation organizations that have requested a copy of our comments. We have also, at times, made copies of letters of broad interest available on our Wetlands Internet home page. EPA strongly supports the public's right to know and have access to our actions and documents.

EPA is a strong supporter of the establishment and use of wetland mitigation banks. Through our participation on the interagency Mitigation Banking Review Team (MBRT), the COE produced the Guidance on the Establishment of Mitigation Banks in Georgia, which builds on the federal mitigation banking guidance. Under these sets of guidance, a number of private and Georgia Department of Transportation wetland mitigation banks have been established throughout Georgia that are operating successfully. The guidance addresses the situations in which the use of mitigation banks may be appropriate, and the times when on-site or within watershed mitigation may be environmentally preferable to protect water quality and other public benefits. This is decided on a case-by-case basis for projects. However, it is incumbent on the applicant to demonstrate the impracticability of on-site mitigation or highlight the environmental benefits of going off-site. Mitigation banking purely for convenience is not an adequate justification.

We have outlined our specific concerns to the COE regarding the Monastery Bank on numerous occasions. EPA is concerned that the banking instrument was approved unilaterally by the COE without the consensus of the MBRT, forcing review of every mitigation plan that

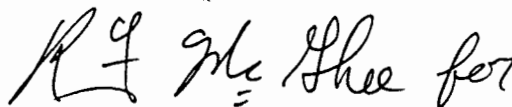
proposes using the Monastery Bank. Approximately 52% of the area to be set aside for the Bank is not now, nor will it ever be, jurisdictional wetlands. EPA is concerned that this is a very high proportion of uplands for a wetland mitigation bank. Fortunately this area accounts for only about 30% of the wetland mitigation credits available in the Bank. However, the remaining 70% of the credits are being generated by very modest "enhancement" actions, actions that we feel are overvalued for their mitigation benefit. EPA believes the Bank service area is too large, encouraging use from areas that would best benefit from on-site or at least within watershed mitigation actions. Overall we continue to find that the Monastery Bank, as currently approved, has significant potential to mitigate for wetland losses with upland preservation and thus lead to an overall net loss of wetlands.

Since most of the uses of the Monastery Bank to this date have involved nationwide permits, the COE has authorized these projects over the concerns of EPA and other resource agencies. The Hall County proposal to construct a new water supply reservoir is an individual permit which will result in greater impacts to aquatic resources. In a letter dated December 4, 1997, EPA recommended that the COE deny a permit for the project as proposed. In that letter EPA expressed concerns about the project's potential water quality impacts and the lack of appropriate mitigation. The bulk of the applicant's mitigation plan consisted of mitigation credit for the reservoir itself and for an upland buffer around the reservoir. The use of the Monastery Bank was a minor component of the mitigation plan.

EPA believes that with a banking instrument agreed upon through a consensus of the MBRT, and which addresses the concerns of all the member agencies of the MBRT, the Monastery Bank has considerable potential as a wetland mitigation bank. To this end we have requested the COE to initiate the dispute resolution process referred to in both the federal and Georgia banking guidance. While this process is not clearly defined, we hope the COE will agree to resolve the outstanding issues EPA and other agencies have with the Monastery Bank.

EPA is committed to the establishment and use of wetland mitigation banks in Georgia based on the federal and Georgia guidance, working in coordination with other federal and state agencies and in accordance with the national goal of no net loss and eventual net gain of wetlands. Mr. Berger may wish to contact Mr. Bill Cox, Chief, Wetlands Section at 404-562-9351 to further discuss this issue. If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "John H. Hankinson, Jr.", written in a cursive style.

John H. Hankinson, Jr.  
Regional Administrator

JACK KINGSTON  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX



*AK-970 2612*

# Congress of the United States

## House of Representatives

Committee On Appropriations

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

October 8, 1997

Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington, DC 20460

Dear Sir/Madam:

One of my constituents, Mr. *Exp. 6*, has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by Mr. ( ) and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Trish DePriest. She can be reached at (912) 352-0101.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

Please reply to:

Congressman Jack Kingston  
6605 Abercorn St., Suite 102  
Savannah, Georgia 31405  
ATTN: Trish DePriest

**received**  
10/15/97 RKC

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202)225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912)265-9010  
(912) 265-9013 FAX



**Committee On Appropriations**

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

# Congress of the United States

## House of Representatives

### INTER OFFICE MEMORANDUM

DATE: October 8, 1997

OFFICE LOCATION: SAVANNAH

STAFF: td

CONTACT MADE: BY PHONE\_\_\_ BY LETTER\_\_\_ IN PERSON\_\_\_

NAME: Mr. *Exple*

ADDRESS: 3  
Savannah, Georgia, 31404

ID NUMBER:

TELEPHONE\_\_\_\_\_HOME)\_\_\_\_\_(OFFICE)

NATURE OF INQUIRY:

Feels that Union Camp cannot continue to pollute the Savannah Area under EPA guidelines. Wants EPA to more severely regulate emissions allowable. Has chronic respiratory problems due to Union Camps's emmissions.

Please Reply to:

Congressman Jack Kingston  
6605 Abercorn Street  
Suite 102  
Savannah, GA 31405  
Attn: Trish DePriest



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER  
100 ALABAMA STREET, S.W.  
ATLANTA, GEORGIA 30303-3104

NOV 03 1997

Honorable Jack Kingston  
Member, United States  
House of Representatives  
6605 Abercorn Street, Suite 102  
Savannah, Georgia 31405

Dear Congressman Kingston:

We are in receipt of your October 8, 1997, letter written on behalf of one of your constituents, Mr. <sup>Fig. 4</sup> Glenn. Mr. Glenn's inquiry was in regard to Union Camp polluting the Savannah area and allegations that he has developed chronic respiratory problems due to Union Camp's emissions. My staff and I have reviewed this request and would like to provide the following comments.

The United States Environmental Protection Agency (EPA) shares a joint responsibility with the Georgia Department of Natural Resources (GA DNR) to ensure that all sources are in compliance with the established air emission limiting regulations. The enforcement of these regulations is designed to protect human health and the environment. Although EPA shares this responsibility, GA DNR has a fully delegated program and has the primary responsibility for enforcing these regulations.

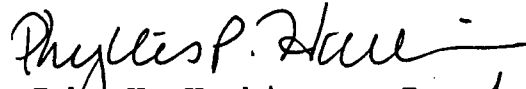

After reviewing your letter, a member of my staff contacted GA DNR's Air Protection Branch on October 27, 1997, to obtain the latest information regarding Union Camp. Based on conversations with GA DNR, this facility is inspected at least twice a year and is currently in compliance with applicable air emissions regulations. Please be assured that EPA will take the necessary measures to maintain continuous compliance by all regulated air pollution sources in Georgia.

An extensive air monitoring study was conducted in Savannah by GA DNR and the local Health Department to determine the pollutants and the potential risks to which the citizens of that area may be exposed. To address any potential health concerns as a result of pollutants in your area, please feel free to contact Dr. Randy Manning, of GA DNR at (404) 656-4713 or (706) 369-6376.

EPA shares your concern for a clean environment. However, the effects of air pollutants on public health will be minimized as long as the facility remains in compliance with all applicable emission limiting regulations.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

  
John H. Hankinson, Jr.   
Regional Administrator

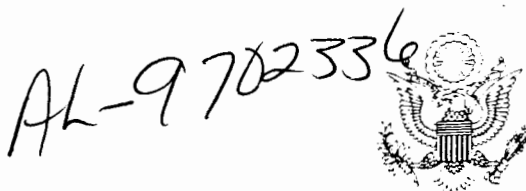
cc: Tony Cutrer, Manager  
Stationary Source Compliance  
Program  
Georgia Department of  
Natural Resources  
4244 International Parkway  
Suite 120  
Atlanta, GA 30354



**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX



Committee On Appropriations

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

**Congress of the United States**  
**House of Representatives**

September 10, 1997

The Honorable Carol Browner  
Administrator, The Environmental Protection Agency  
401 M Street, S.W.  
Washington DC 20460

Dear Administrator Browner:

We are writing concerning the Senior Environmental Employment (SEE) Program at the Environmental Protection Agency.

It has come to our attention that the American Association of Retired Persons (AARP) has withdrawn as a grantee of the SEE Program and that a new agency, the National Older Worker Career Center, has been created to assume the AARP portion of SEE. It is our understanding that eligible grantees are limited to current private, nonprofit national grantees of the Senior Community Service Employment Program (SCSEP), under Title V of the Older Americans Act. The current list of SCSEP sponsors does not include the newly formed National Older Worker Career Center, and accordingly, excludes them from operation this program.

In our congressional districts, Green Thumb, Inc. has an excellent record of achievement with regard to assisting older adults obtain employment. They consistently exceed all performance goals set by the Department of Labor and enjoy broad support throughout our state. In fact, last year Green Thumb in Georgia was the runner-up for the national award for excellence in older worker programs.

We urge you to rethink this planned transfer of the SEE program from AARP to this new agency and strongly urge you to consider Green Thumb as a grantee of SEE.

Thank you for both your consideration and prompt response.

Sincerely,

Jack Kingston  
Member of Congress ✓

JK:ajs

Saxby Chambliss  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT 7 1997

OFFICE OF  
ADMINISTRATION  
AND RESOURCES  
MANAGEMENT

The Honorable Jack Kingston  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Kingston:

Thank you for your letter of September 10, 1997 expressing your interest in the Senior Environmental Employment (SEE) Program and the American Association of Retired Persons (AARP) Foundation SEE cooperative agreements.

We have spent several months considering the options available for awarding these cooperative agreements to other eligible recipients. The Environmental Programs Assistance Act, P.L. 98-313, authorizes the Environmental Protection Agency (EPA) to award grants and cooperative agreements to organizations designated by the Secretary of Labor under Title V of the Older Americans Act. The statute does not direct EPA to award SEE Program grants to grantees of the Senior Community Service Employment Program (SCSEP) under Title V of the Older Americans Act. The National Older Worker Career Center, Inc. (NOWCC) is an eligible SEE recipient as they received eligibility designation by the U.S. Department of Labor January 9, 1997 to sponsor a Senior Community Service Employment Program.

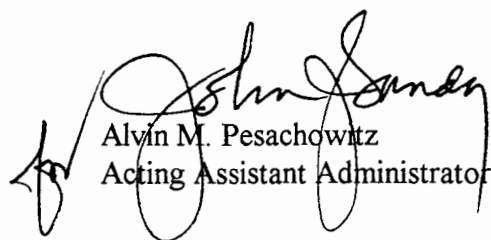
We have decided it is in the best interest of the government and the participants in the SEE Program to award these cooperative agreements to eligible organizations currently involved with the Program or whose staff has extensive experience in the administration of the SEE Program. NOWCC was founded by AARP Foundation SEE Program staff who represent many years of employment program experience. Most of the AARP Foundation SEE staff will move from the AARP Foundation to NOWCC to administer the SEE Program.

Our decision continues EPA's long-term position to support a broad-based SEE Program. We anticipate this trend to continue when new or existing opportunities for changes to the SEE Program are available. Again, every consideration has been given to this matter. Green Thumb, Inc., one of the original sponsors of the SEE Program in 1976, decided to withdraw their participation in the Program in 1978. EPA contacted them in 1994 and, again, they were not

interested in participating in the Program. We are encouraged that they now wish to become involved and although we have not awarded them any of the AARP Foundation cooperative agreements at this time, full consideration will be given to them for future opportunities to join the SEE Program.

Thank you for your interest in this important program that funds cooperative agreements so that the talents of older Americans can be used in providing technical assistance to Federal, State, and local environmental agencies for projects of pollution prevention, abatement and control. EPA values the capabilities, dedication and commitment that older workers contribute to the SEE Program in temporary positions.

Sincerely,



Alvin M. Pesachowitz  
Acting Assistant Administrator

JACK KINGSTON  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202)225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912)265-9010  
(912) 265-9013 FAX

AL-9702109



Committee On Appropriations

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

## Congress of the United States

### House of Representatives

August 14, 1997

Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington, DC 20460

Dear Sir/Madam:

One of my constituents, Mr. <sup>Exple</sup>, has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by Mr. and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Trish DePriest. She can be reached at (912) 352-0101.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

Please reply to:

Congressman Jack Kingston  
6605 Abercorn St., Suite 102  
Savannah, Georgia 31405  
ATTN: Trish DePriest

JACK KINGSTON  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202)225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912)265-9010  
(912) 265-9013 FAX



# Congress of the United States

## House of Representatives

### INTER OFFICE MEMORANDUM

Committee On Appropriations

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

DATE: August 14, 1997

OFFICE LOCATION: SAVANNAH

STAFF: td

CONTACT MADE: BY PHONE\_\_\_ BY LETTER\_\_\_ IN PERSON\_\_\_

NAME: Mr. *Exple*

ADDRESS: 1. *Exple*  
Bloomingdale, GA 31302

ID NUMBER:

TELEPHONE\_\_\_\_\_ HOME) \_\_\_\_\_ (OFFICE)

NATURE OF INQUIRY:

Mr. *Exple* is a refrigeration tech. He would like to know why an individual must purchase a license to install each different refrigerant? He says that it is too expensive for the average small business owner to operate.

Please Reply to:

Congressman Jack Kingston  
6605 Abercorn Street  
Suite 102  
Savannah, GA 31405  
Attn: Trish DePriest



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 3 - 1997

OFFICE OF  
AIR AND RADIATION

Honorable Jack Kingston  
Member, House of Representatives  
United States Congress  
6605 Abercorn Street, Suite 102  
Savannah, Georgia 31405

Dear Congressman Kingston:

Thank you for your letter of August 14, 1997, inquiring on behalf of your constituent, *Exp Co*, regarding the technician certification program.

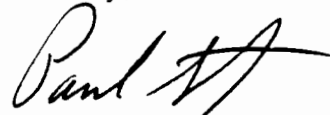
Section 608 of the Clean Air Act (the Act) requires the Environmental Protection Agency (EPA) to develop regulations that limit emissions of ozone-depleting compounds during their use and disposal to the "lowest achievable level" and to maximize recycling. Administrator Carol M. Browner signed regulations promulgated under section 608 of the Act and published in the Federal Register (FR) on Friday, May 14, 1993, (58 FR 28660).

In accordance with these regulations, technicians must become certified by passing a test provided by an EPA-approved certifying organization. EPA believes that the mandatory technician certification requirement provides technicians with the appropriate information required for servicing equipment in the most environmentally sound manner. More than one hundred organizations are approved to offer the certification test.

Mr.        is required to pass the certification test, not to purchase any license or participate in any training or review programs. Mr.        asked about different tests based on the type of refrigerant used. The certification test is divided into four sections. The sections reflect the types of equipment serviced. For example, one part of the examination covers small appliances, while another section covers the applicable standards for industrial process refrigeration equipment and commercial refrigeration. These divisions were created to ease the burden for the technicians. It seemed unreasonable to require someone who only services small appliances to complete sections that concern industrial process refrigeration equipment, commercial refrigeration, and other equipment that the technician does not service. In general, fees for the certification test are between \$25 and \$75 dollars, with retests often being offered at a reduced cost.

I have enclosed the current list of approved technician certification programs. As the list indicates, information concerning how to contact each program's main office is listed. Most programs offer the certification test at various locations throughout the country. Therefore, Mr. \_\_\_\_\_ is not limited to only contacting those programs with main offices near where he resides. For additional information concerning the technician certification process, please contact Cindy Newberg of my staff at (202) 233-9729 or the Stratospheric Protection Hotline at (800) 296-1996, Monday through Friday, 10:00 a.m. to 4:00 p.m., Eastern Daylight Time.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul M. Stolpman", with a stylized flourish at the end.

Paul M. Stolpman, Director  
Office of Atmospheric Programs

Enclosure

6205J:CNewberg:lly:261C:233-9729:08\28\97  
Control No. AL-9702109

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202)225-5831

BRUNSWICK OFFICE  
Federal Building, Room 304  
Brunswick, GA 31520  
(912)265-9010

**Committee On Appropriations**

AL-9701935



**Congress of the United States**  
**House of Representatives**

July 21, 1997

SAVANNAH OFFICE  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912)352-0101

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912)489-8797

WAYCROSS OFFICE  
208 Tebeau Street  
Waycross, GA 31501  
(912)287-1180

Ms. Lynne Ross  
Director, Congressional Liaison Division  
Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington DC 20460

Sir/Madam

One of my constituents, Mr. Robert Johns, has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would appreciate your responding to the points raised by my constituent, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Russ Graham. He can be reached at (912) 265-9010.

Thank you for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

**Please reply to: Russ Graham**  
**Congressman Jack Kingston**  
**805 Gloucester St., Federal Bldg., Rm. 304**  
**Brunswick, GA 31520**



received  
6/12/97

received

THOM'S TRANSPORT CO., INC.

P. O. Box 405  
Blackshear, Georgia 31516  
Robert W. Johns,  
Safety Director

912-449-3316  
1-800-537-5261  
Fax: 1-912-449-0043

JUNE 11, 1997

Honorable Jack Kingston  
1<sup>st</sup> District of Ga Congressman  
Federal Building Rm 304  
Brunswick, Ga 31521

Dear Sir:

I am writing to you with great concern of an accident involving a Thom's Transport Co., Inc. vehicle.

The accident occurred on Monday, April 28, 1997, at approximately 10:20 p.m. in Surry County, North Carolina. Due to the accident there was a fuel spill of less than 100 gallons from the fuel tank of the vehicle.

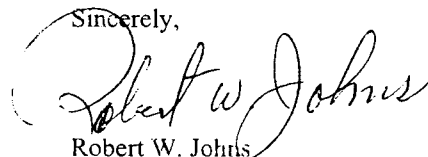
On April 29, 1997 at around 1:00 a.m. I received a phone call from a Mr. John Shelton. Mr. Shelton stated he was with the Surry County EPA and he wanted me to be aware of a fuel spill at the site of an accident involving one of Thom's Transport's vehicles. He stated that the spill would need to be cleaned up. I told Mr. Shelton I did not know of anyone in the area that did that type of work but I would contact the wrecker operator that had picked up the vehicle on helping me to find someone to do the clean-up. Mr. Shelton then stated he knew of a company that did this type of work, he gave me the company name, Carolina Environmental Specialists, and a contact person, Mr. Bobby Stanley. I then contacted Mr. Bobby Stanley on the fuel spill and clean-up. Mr. Stanley stated that before he would start with the clean-up he would need a signed contract. He then faxed me a contract, I signed it and returned it to him by fax.

My concern Mr. Kingston is the "very outrageous" bill, in the amount of \$18,719.61, I received after the clean-up was completed. I feel this is a good example of severe price gouging to those who have the misfortune of needing another's help or service. We had a similar accident occur on I-16 in Georgia with approximately the same amount of fuel spilled on March 24<sup>th</sup> of this year with the bill being only \$3,883.27. Both spills occurred in the median of an Interstate Highway. I would greatly appreciate your looking into this matter and seeing if there may be any way to set some guidelines or regulations on charges for these type of services.

Enclosed you will find a copy of the contract and the bill for the clean-up.

Thank you so very much for allowing me to take up your valuable time.

Sincerely,



Robert W. Johns  
Safety Director

RWJ  
cc

Carolina Environmental Specialists  
 7925 Hwy 601 North  
 PO Box 99  
 Boonville, NC 27011

# Invoice

DATE	INVOICE NO
5/1/97	36

<b>BILL TO</b>
THOM'S TRANSPORT
MR. ROBERT JOHNS
PO BOX 403
BLANCHESHEAR, GA 31716

P O NO	TERMS	REP	PROJECT
2502	Due on receipt	RDS	

ITEM	DESCRIPTION	QTY	RATE	AMOUNT
TRACKHOE	EXCAVATE CONTAMINATED SOIL/LACE CLEAN SOIL/REGRADE AREA/ETC./HOURS	16	110.00	1,760.00
DUMP TRUCKS	HAUL CONTAMINATED SOIL/9 TRUCKS X 3.5 HOURS	31.5	60.00	1,890.00
SOIL DISPOSAL	CONTAMINATED SOIL DISPOSAL/ TON	132.36	24.00	3,176.64
DUMP TRUCKS	DUMP TRUCKS/SECURE & HAUL BACKFILL / HOURS	27	60.00	1,620.00
HAZ-MAT TRAIL	HAZ-MAT TRAILER	16	75.00	1,200.00
SERVICE TRUCK	SERVICE TRUCK	16	45.00	720.00
VACUUM TRUCK	VACUUM TRUCK	10	135.00	1,350.00
WATER DISPOSAL	WATER DISPOSAL/GALLONS	857	0.50	428.50
GEOLOGICAL AN	GEOLOGICAL ANALYSIS		2,369.10	2,369.10
GEOLOGICAL AN	CES 15% MARKUP		355.37	355.37
MATERIALS	SEED/FERTERLIZER/STRAW/ETC		150.00	150.00
LABOR	SITE SUPERVISOR	16	50.00	800.00
LABOR	PROJECT MANAGER	16	75.00	1,200.00
LABOR	OFFICE COORDINATOR	16	30.00	480.00
LABOR	CLERICAL	6	20.00	120.00
LABOR	3 MEN @ \$25/HOUR X 10 HOURS	30	25.00	750.00
MISCELLANEOUS	ABSORBENTS/PADS/BOOMS/RUBBER GLOVES/RUBBER BOOTS/FILM/ETC.		350.00	350.00

Thank you for your business.

**Total**

\$18,719.61



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER  
100 ALABAMA STREET, S.W.  
ATLANTA, GEORGIA 30303-3104

AUG 12 1997

Honorable Jack Kingston  
Member, United States  
House of Representatives  
805 Gloucester Street  
Federal Building, Room 304  
Brunswick, Georgia 31520

Dear Congressman Kingston:

Thank you for your letter of July 21, 1997, on behalf of Mr. Robert Johns, concerning the cleanup of a fuel spill in Surry County, North Carolina.

The Environmental Protection Agency was not involved in the incident described in Mr. Johns' letter. Mr. Johns evidently dealt directly with the county agency and the cleanup contractor. I regret that we cannot be of assistance to your constituent in this matter.

If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, which appears to read "John H. Hankinson, Jr.", is written over a horizontal line.

John H. Hankinson, Jr.  
Regional Administrator

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202)225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912)265-9010  
(912) 265-9013 FAX



**Congress of the United States**  
**House of Representatives**

April 25, 1997

**Committee On Appropriations**

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

The Honorable Carol Browner  
Administrator  
The Environmental Protection Agency  
401 M Street, S.W.  
Washington, D.C. 20460

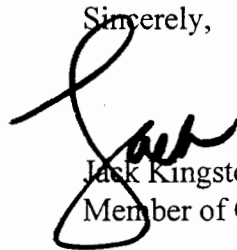
Dear Administrator Browner:

One of my constituents, Mr. Gary Stephenson of Brunswick, Georgia, has contacted me regarding a matter in which I believe your office may be helpful. Please notice the enclosed communication for your review.

I would very much appreciate your responding to Mr. Stephenson's concerns and offering any assistance available under the applicable laws and regulations.

The contact person in my office for this matter is Trip Tollison, who can be reached at 202-225-5831.

Sincerely,



Jack Kingston  
Member of Congress

enclosure

cc: Mr. Gary Stephenson  
Mr. Kevin Mathews, EPA's Washington Office

JK:hkt

**received**  
CE 4-28-97

U.S. Shipyard Inc  
1020 Commercial Dr  
Brunswick GA. 31525-

DB- What do you  
think?

Trip

MAR 11 1997  
ATTN: Congressman Jack Kingston

Dear Sir,

I am writing to request your assistance in the purchase of the former LCP Site at 65 Ross Rd., Brunswick, GA.

U.S. Shipyard made a commitment to the community of Brunswick Ga and Glynn County to acquire the former LCP Site and bring 250 needed jobs back to the area of Brunswick, GA.

We have been forthright and aggressive in the pursuit of that goal, to date we have included the former owners and PRP's responsible for the contamination in all our discussions.

We believed as they indicated that they wanted to see the property go from remediation to immediate use. The meeting that you attended in Brunswick Ga. in December of '96, included the PRP's and the U.S. Shipyard group.

Based on favorable review of our re-use proposal by representatives of the EPA and the possibility to the former owners that this was not only a workable plan but one that could be accomplished while remediation continued. We have gone all out to acquire the property. We have in our possession an acceptable agreement with the former owners for the purchase.

We offered 1,234,000 dollars. The Hamlin Group must present our purchase agreement to the bankruptcy court in New Jersey, which they are willing to do. Allied Signal became aware of our offer to the Hamlin Group and took the position that we are receiving a windfall at the price. Allied Signal has now made an offer to acquire the property. We feel very strongly that Allied Signal's interest in the property is not for re-use.

Allied Signal sent a representative to Brunswick and informed me that they would acquire the property and that a lease may be possible for the water front acreage.

53761  
Scott

I don't feel that this offer is sincere, but rather a smoke screen to get U.S. Shipyard to roll over and play dead, while they move forward to acquire the property.

I believe that they would build a fence around the place and let it sit for years to come, allowing access by the EPA and Allied Signal, assuring Glynn county of the loss of 250 badly needed jobs.

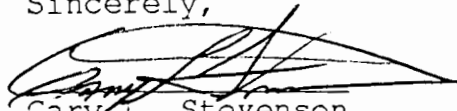
We request that your office contact the EPA in Washington D.C., Mr. Kevin Mathews, and make him aware of U.S. Shipyards position in this process.

We cannot out-bid Allied Signal for this property, however; we can and will bring 250 jobs to Glynn County to replace the ones lost when LCP was shut down.

Mr. Harold Reheis, of the State EPD in Georgia, had to make an agonizing decision to close the plant and eliminate 250 jobs. He now has an opportunity to bring those jobs back should he choose to intervene on our behalf.

Any consideration you give this matter would be greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary L. Stevenson", written over a horizontal line.

Gary L. Stevenson  
General Manager  
KINGSTON.WPS



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER  
100 ALABAMA STREET, S.W.  
ATLANTA, GEORGIA 30303-3104

MAY 19 1997

Honorable Jack Kingston  
House of Representatives  
Washington, DC 20515

Dear Congressman Kingston:

Thank you for your letter of April 25, 1997, to Administrator Carol Browner on behalf of Mr. Gary Stephenson of U.S. Shipyard, Inc., concerning the LCP Chemicals National Priorities List site in Brunswick, Georgia.

EPA is aware of both U.S. Shipyard's and AlliedSignal's proposed purchase of the LCP Chemicals Site. U.S. Shipyard has asked EPA to enter into a Prospective Purchaser Agreement (PPA) in anticipation of its acquisition of the LCP Chemicals Site. EPA has reviewed U.S. Shipyard's PPA and forwarded comments on that agreement back to U.S. Shipyard's counsel.

The Agency recognizes that entering into an agreement containing a covenant not to sue with a prospective purchaser of contaminated property, given appropriate safeguards, may result in both environmental and economic benefit to the community. PPAs benefit communities by encouraging the reuse of property which may otherwise not have been developed. Although we recognize the potential for economic redevelopment and restoration of jobs afforded by U.S. Shipyard's proposal, we cannot promote one purchaser over the other. We will, however, continue to coordinate efforts concerning the draft PPA with U.S. Shipyard, Inc.

Please let me know if I may be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "John H. Hankinson, Jr.", written over the word "Sincerely,".

John H. Hankinson, Jr.  
Regional Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

AL-0082122

OCT 24 2001

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

The Honorable Jack Kingston  
U. S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Kingston:

Thank you for your September 29, 2000, letter to Mr. Robert J. Martin, the Office of Solid Waste and Emergency Response National Ombudsman, requesting that he conduct an investigation of the Environmental Protection Agency's (EPA) cleanup activities at the Hercules 009 Landfill Superfund site in Brunswick, Georgia. I understand you requested this assessment on behalf of the Glynn Environmental Coalition, and other residents living in the Brunswick area.

In a recent letter to the U. S. General Accounting Office (GAO), Mr. Martin listed the Hercules 009 Landfill Superfund site investigation as part of his ongoing work. I am enclosing a copy of this letter for your information and I hope it addresses your concerns. If you have any additional questions please contact Mr. Martin at (202)260-9361.

Thank you for your interest in the Superfund program.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Marianne L. Horinko".

Marianne Lamont Horinko  
Assistant Administrator

enclosure



**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1034 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX

AL-0001929



**Congress of the United States**  
**House of Representatives**

August 25, 2000

**Committee On Appropriations**

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

Mr. John Reeder  
Deputy Assoc. Admin. of Congressional Affairs  
Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington, DC 20460

Dear Mr. Reeder:

One of my constituents, Mr. William J. Hunter, has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by my constituent, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Bruce Bazemore. He can be reached at (912) 352-0101.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

**Reply to: Bruce Bazemore**  
**Congressman Jack Kingston**  
**6605 Abercorn St., Suite 102**  
**Savannah, GA 31405**

## William J. Hunter



5230 Old Louisville Road ♦ Pooler, Georgia 31322  
Phone 912-964-2548

August 14, 2000

Congressman Jack Kingston  
6605 Abercorn Street  
Savannah, Georgia  
31405

Dear Mr. Kingston:

On July 6, 2000, WTOC evening news, 5 or 5:30 P.M. We were informed of the mussel kill on the Ogeechee River.

On July 7, 2000, I called EPD first. They knew nothing. I then Called Ralph Yarbrough (ORVA), he knew nothing.

Then I called WTOC, they said that the mussle kill was in the area of US 301, in Bulloch county.

I then called EPD and Ralph and relayed the information to them. I told them that I was going to personally check out the river. As I was going out the door, EPD Called back. They said that they had talked to Mr. Carl Hall and that Mr. Hall had already checked the kill out, up and above Kings Finishing. They had come upon a large tree across the river and couldn't go any further. She ( Michelle Cortes), gave me Carl Hall's phone number, 912-727-2111. I told her that I was not going to put a boat in the river, but I was going to drive and check the river at each highway crossing, and that Ralph Yarbrough was going to go with me.

The Trip July 7, 2000: Ralph met us at Shearouse Landing.

The first stop was at the Oliver Bridge. Everything was fine. Mussel and clams were fine. At the Ogeechee Ga. crossing, We did not stop because a group of convicts were working in the area.

Rocky Ford Landing was next. We found one live clam. The flesh was coming out of it. The rest had been dead for some time. The water was muddy.

Scarboro Landing was next. There were no shells or mussels. Some bathers said that there were a few dead shells on a sandbar across the river. The water quality was very muddy. There were a lot of suspended solids in the water. The water quality was very bad.

Next, Millen Landing, the land bridge where Buckhead creek flows into the Ogeechee River. There was one live mussel in the slough, leading off from the river. The rest of the mussels in the river were dead.

Next, Buckhead Creek, above the Millen waste treatment outfall. The water quality was good. But we found no live mussels. The gate to the Millen waste treatment facility was closed and locked.

Next, Midville Landing. The water quality was much better than the water below Millen. We found live clams and mussels.

The last stop. The landing above Louisville. We found no live mussels but the water quality was fair.

The total miles on this trip were 242.

#### Findings:

The water quality declined at Millen Georgia, past US 301. The water was being replenished in the river from aquifer and ground water.

#### Some Facts from the recent past:

In the past Kings Finishing has dumped tons of sodium sulphate into the Jacksons branch. It is a mixture of sodium hydroxide and sulphuric acid.

According to the late Dr. Long, from Bryan county, salt in the water makes it heavy. That means that the sodium sulphate would flow along the bottom of the river. Thus affecting the bottom dwelling creatures first, depending on their tolerance to salt. Sodium sulphate is found naturally in the environment.

#### The Samples we took in 1990.

The first sample we took, August 19, 1990 was not enough water to run sample checking. So on August 26, 1990, we took a second sample using a sample kit, from culligan water. The sample showed over 2 tons of sodium sulphate, being dumped every 24 hours, this from Kings Finishing only.

The clam and mussel kill in 1990 was on July 3.

This years clam and mussel kill happened in the same stretch of river, that the kill of July 3, 1990 did. A normal die off above Kings Finishing and a massive kill at and below or down stream from Kings Finishing.

There was nothing upstream from Kings Finishing to support the massive clam kill below Kings Finishing.

Mussels and clams consume and assimilate sulphides in the water. In the process of feeding they clarify the water.

Michelle Cortes at EPD was the person that I spoke to originally. I asked her for the lab reports on the Ogeechee clam kill. Mr. Carl Hall, Fish and Game (DNR), was the person with the test. That test was only a dissolved oxygen test. She said Kings Finishing was closed down from June 30 to July 10, 2000.

This coincides with the kill in 1990. Ask for the down time schedule of Kings Finishing for summer of 1990.

#### Most recent Observations of Clam and mussel kill

August 11, 2000, 10.50 A.M.. I called Tim Barrett, at DNR. He could not come out today. Maybe next Wednesday or Thursday or Friday.

I called EPD -353-3225. He said that he would get someone to come out and look at it.

At 3:20 P.M. I called Jack Kingstons office, in Statesboro. She said that she would call Bruce in Savannah. And would get back to me.

EPD referred me to DNR. DNR referred me back to EPD. Who in turn referred me back to DNR.

I then called Jack Kingstons office, in Savannah. Bruce Bazemore. No one ever returned my phone call.

On Friday August 11, 2000, I took a water sample from the Ogeechee River. On Monday August 14, 2000, I took the sample into the laboratory, keeping it on ice until this time.

I assumed that the condition to the river was not life threatening to people. But it was to the ecology of the river.

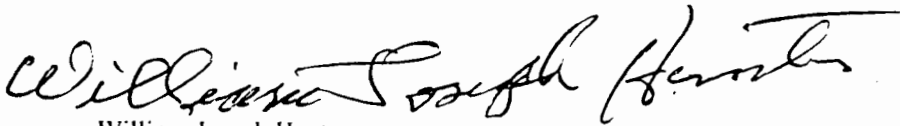
I, William Joseph Hunter, have been actively pursuing the causes of pollution in the Ogeechee River since 1988. I was chairman of the investigation committee of the Ogeechee River Valley Association for eight years.

Foreshmans shutdown, above Louisville Georgia, made a great improvement in water quality down river to Millen Georgia. The changeover of Jockey International into Millens oxidation ponds, made a vast improvement in the water in Buckhead creek. The water from Millens treatment facility is not good. Partial degeneration is observed down stream, in the Ogeechee River, to somewhere above US 301.

From US 301 down, there is a great amount of mortality in both clam and native mussels. Bottom feeding fish, catfish and suckers, were also affected.

As far as I can tell there was a greater amount of kill below US 301.

Respectfully Yours

A handwritten signature in cursive script that reads "William Joseph Hunter". The signature is written in dark ink and is positioned above the printed name and title.

William Joseph Hunter  
Board Of Directors  
Ogeechee River Valley Association

**KING FINISHING COMPANY EFFLUENT  
JACKSON BRANCH - DECEMBER 18, 1991**

	KING FINISHING EFFLUENT	JACKSON BRANCH	
		UPSTREAM KING FINISHING EFFLUENT	100 FEET DOWNSTREAM KING FINISHING EFFLUENT
Time	1610	1650	1700
Flow (mgd)	2.2	--	--
D.O (mg/l)	--	9.7	8.9
Temperature (°C)	--	9	15
Hardness (mg/l as CaCO <sub>3</sub> )	40	12	22
Specific Conductance (μS/cm)	4,360	49	1,950
pH	8.3	6.4	8.3
Total Alkalinity (mg/l as CaCO <sub>3</sub> )	1,055	13	558
BOD <sub>5</sub> (mg/l) / (lbs per day)	8.8 / 1,161	1.3	8.7
NH <sub>3</sub> -N (mg/l)	1.69	0.07	0.77
NO <sub>2</sub> + NO <sub>3</sub> -N (mg/l)	25.52	0.44	12.69
TKN-N (mg/l)	9.1	--	--
Total P (mg/l)	1.02	0.17	0.64
TOC (mg/l)	55.5	5.6	47.0
Turbidity (NTU)	8	2	8
Suspended Solids (mg/l) / (lbs per day)	26 / 476	<1	8
ADMI Color - Orig. pH - pH adjusted to 7.0	238 225	--	--
Sodium (mg/l)	830	--	--
Sulfides (mg/l)	<0.1	--	--
Phenols (μg/l) / (lbs per day)	28 / 0.51	--	--
Silver	<2.5	<2.5	<2.5
Arsenic	<20	<20	<20
Berillium	<10	<10	<10
Cadmium	<0.5	<0.5	<0.5
Chromium	<10	<10	<10
Copper	50	<5	23
Nickel	<20	<20	<20
Lead	<1.3	<1.3	<1.3
Antimony	<55	<55	<55
Selenium	<8	<8	<8
Thallium	<5	<50	<50
Zinc	<20	<20	<20
Mercury	<0.2	<0.2	<0.2



# BROWARD TESTING LABORATORY, INC.

POST OFFICE BOX 23541

FORT LAUDERDALE, FLORIDA 33307

TELEPHONE: (305) 776-7238

## I N V O I C E

W.J. HUNTER  
ERC INC.  
ROUTE 5 BOX 737  
SAVANNAH, GA. 31408

INVOICE N<sup>o</sup> 002313

DATE 9/28/90

DATE	CHARGES AND CREDITS	BALANCE
8/28/90	ANALYSES AS REQUESTED AND AS FOLLOWS:	
	BASE NEUTRALS	\$ 250.00
	602 SCAN	110.00
	TOTAL CYANIDE	45.00
	BOD <sub>5</sub>	25.00
	PH	15.00
	NITRATE	15.00
	HYDROGEN SULFIDE	15.00
	SULFATE	15.00
	TOTAL PHENOLS	45.00
	TOTAL PHOSPHORUS	45.00
	CADMIUM	20.00
	CHROMIUM	20.00
	COPPER	20.00
	MERCURY	40.00
	SODIUM	20.00
	ZINC	20.00
		<hr/>
		\$ 720.00
	LAB # 90-3305	

POTABLE WATER LABORATORY CERTIFICATION NUMBER 86137  
ENVIRONMENTAL LABORATORY CERTIFICATION NUMBER 86035

PROJECT W.J. HUNTER / ERC INC.

SAMPLE DATE 8/26/90

SAMPLE TIME 10:30 AM

COMPLETION DATE 9/24/90

SAMPLE TYPE ( ) BACKGROUND

( ) SITE BOUNDARY

( ) INTERMEDIATE

( ) COMPLIANCE

[illegible]

# Georgia Center for Law in the Public Interest

A nonprofit public interest corporation

printed on recycled paper

264 N. Jackson Street  
Athens, Georgia 30601

Tel. (706) 546-9008  
Fax. (706) 546-6481

For Immediate Release

Contacts: Douglas P. Haines, Executive Director of the  
Georgia Center for Law in the Public Interest

Eric E. Huber, Attorney with the Sierra Club  
Legal Defense Fund, Inc., New Orleans, LA,  
(504) 522-1394

---

## Background Paper Accompanying Press Release Concerning Judge Shoob's August 30, 1996, Order Mandating An Early Schedule For EPA To Establish TMDLs

In an Order entered on August 30, 1996, Judge Marvin H. Shoob of the United States District Court in Atlanta mandates that the U.S. Environmental Protection Agency ("EPA") establish Total Maximum Daily Loads ("TMDLs") -- i.e., pollutant load limits -- for impaired waters in Georgia within five years and specified a timetable for TMDLs to be implemented.

### A. TMDL Process

The Federal Clean Water Act regulates discharges according to a pollutant's effect on our lakes, rivers and streams. TMDLs are a central feature of this "water quality-based" approach. The TMDL process requires states to identify waters that are impaired (referred to as "water quality limited segments") and to identify the pollutants causing the impairment.

For impaired waters, the State of Georgia was to have established TMDLs in 1979. This involves, first, an assessment of the amount of pollutants that a lake, river or stream can tolerate without violating water quality standards. The next step is the identification of sources of the pollutants to an impaired water, including:

- "point sources," i.e., identifiable sources of pollutants, such as sewage treatment facilities; and
- "nonpoint sources," i.e., nondiscrete sources of pollutants, such as agricultural and forestry-related activities.



Once these sources are identified, the amount of pollutants that an impaired lake, river or stream can tolerate is allocated among the various pollution sources to ensure that overall acceptable pollutant levels are not exceeded.

In simpler terms, EPA will be required to collect data concerning pollutants in waters across the state, and identify how much of certain pollutants a particular impaired water can tolerate. EPA then will allocate the allowable amount of these pollutants among the various sources.

The TMDL process is a cornerstone of the Federal Clean Water Act. It is designed to provide the technical backbone for State and local efforts to preserve and protect Georgia's lakes, rivers and streams. In the absence of the data generated through this process, State and local governments, and others whose actions impact on Georgia's waters, have been making decisions of far-reaching significance with limited information.

The Federal Clean Water Act required states, including Georgia, to submit to EPA a list of impaired waters and TMDLs for them in 1979. EPA was then required to approve or disapprove each state submission, and if it disapproved a state submission it was required to identify impaired waters and establish TMDLs for them itself.

#### B. Case Pending Before Judge Shoob

The case pending before Judge Shoob arose out of the State of Georgia's 17 year failure and refusal to develop and implement TMDLs for impaired lakes, rivers and streams across the state. To correct this situation, in 1994 the Georgia Center for Law in the Public Interest initiated suit against EPA because of its failure to establish TMDLs when confronted with Georgia's unwillingness to fulfill its obligations under the Federal Clean Water Act. The suit was brought on behalf of a number of environmental groups -- the Sierra Club of Georgia, the Georgia Environmental Organization, Inc ("GEO"), the Coosa River Basin Initiative ("CRBI"), Trout Unlimited, and the Ogeechee River Valley Association, Inc. The Sierra Club Legal Defense Fund later joined in representing these groups.

The case was assigned to Judge Marvin H. Shoob who, after reviewing extensive briefs and hearing oral argument, ruled on March 26, 1996, that EPA indeed had violated its statutory obligation to establish TMDLs for Georgia's impaired waters. He also requested briefs from the parties regarding a schedule and process through which TMDLs would be implemented.

On the related issue of whether Georgia's list of impaired waters was complete, Judge Shoob set a trial date. Thereafter, the parties negotiated a settlement establishing a process

through which EPA will review and ensure the completeness of this list, and a consent decree now is being drafted by the parties.

On August 30, 1996, Judge Shoob rendered his decision concerning the schedule pursuant to which EPA must establish TMDLs and the process through which the TMDLs are to be implemented. Most notably, he granted the environmental groups' request for a 5-year schedule that parallels the state's schedule for assessing water quality under its River Basin Management Plan. This will enable EPA, if it chooses to do so, to coordinate its activities with the state, and to share responsibility for ensuring that TMDLs for impaired waters across the state are finally completed. In the alternative, EPA may establish 20% of the required TMDLs during each of the next five years.

In addition, Judge Shoob's Order ensures that EPA implements (or ensures that the State implements) the TMDLs through the Clean Water Act's permitting process. For example, under Judge Shoob's order, once a TMDL is established for an impaired lake, river or stream, permits issued to facilities that discharge pollutants must be reissued or revoked, as necessary, within one year to ensure that the impaired water complies with water quality standards. If the state fails to implement the TMDLs through its permitting program, EPA is required to strip the state of its authority to administer the program.

Other cases addressing the same issue are pending across the country, and Judge Shoob's order sends a strong message to EPA.

The Georgia Center for Law in the Public Interest is a 501(c)(3) non-profit public interest law center that relies on tax-exempt donations from individuals and organizations to fund its activities. The Georgia Center promotes the development of effective laws and public policy through the use of legislative initiatives, educational programs, publication of studies, individual advocacy projects, and litigation when necessary.

Today's  
High  
90

GOOD  
MORNING!

Today's  
Low  
70

SPORTS

Venus tops Serena, moves into final

FRIDAY,  
JULY 7, 2000

SERVING SOUTHEAST GEORGIA SINCE 1937

# Statesboro Herald

Volume 30, Number 199

© STATESBORO PUBLISHING COMPANY

50 CENTS



HOLLI DEAL ROACH/Staff

Ricky Mixon was surprised Wednesday when he discovered thousands of dead and dying Asiatic clams floating in the Ogeechee River behind his home. The tiny clams, while similar in appearance to Georgia freshwater mussels, are not native to the area but were imported in the 1960s and 1970s by button manufacturers who used the shells in their products, according to Georgia Department of Natural Resources ranger Carl Hall.

## Cat unveiling ceremony | Forum held

**NATIONAL**

Guard charged in suffocation death of  
black man outside store

Page 9

Today's  
High  
**90**

**GOOD  
MORNING!**

Today's  
Low  
**70**

**FRIDAY,  
JULY 7, 2000**

SERVING SOUTHEAST GEORGIA SINCE 19

# Statesboro Herald

Volume 30, Number 199

<http://www.statesboroherald.com>

© STATESBORO PUBLISHING CO.

## Dead clams found along Ogeechee River banks

■ Cause yet  
undetermined

By Holli Deal Roach  
Herald Staff Writer

Fish and game officials spent much of Thursday cruising the Ogeechee River between Rocky Ford and the U.S. 301 North/Dover landings, trying to determine why thousands of tiny freshwater clams have

ditched their shells and lie dead on the river's shores.

Most of the clams floated on the barely-moving surface of the river, while others crowded the water's edge. Fish popped noisily as they fed upon the windfall, but if something unnatural has killed the clams, the plentiful tidbits may spell poison for other species in the river should they feed on them.

Many people think the tiny shellfish are freshwater mussels, some of

**CLAMS Continued on page 10**



Ricky Mixon was surprised Wednesday when he found dead clams in the Ogeechee River behind his home. The tiny shells, are not native to the area but were imported in the shells in their products, according to Georgia

## OTI becomes OTC at unveiling ceremony

By Jake Hallman

Deraney credits HOPE with the cost

# Storboro's Department Them For



## NUTS



## M. uilding treet

301 NORTH

BEST ST.  
★ TENTS  
BRASWELL ST.

HWY. 80

higher education and the business community," he said. "This partnership is reflected in the programs that they provide and the community support they enjoy."

Availability of education,

fledged colleges, the schools will attract more graduating high school seniors and shed some of the stigma associated with misconceptions about "technical institutes."

Purcell praised the funding

lowed in the college's lobby area.

Jake Hallman may be reached at 489-9405 or via e-mail [jakebones@hotmail.com](mailto:jakebones@hotmail.com).

## Clams From Page 1

several species native to Georgia. However, Georgia Department of Natural Resources Ranger Carl Hail said the little creatures are Asiatic clams.

"They are of the Corbicula species," he said. "They are not native to Georgia, but are an exotic import that came in with the button industry 30 or so years ago."

### Looking for answers

Georgia mussels or tiny clams from Asia, they are dying en masse, according to Ricky Mixon, who owns a house nestled in a river bend just a few miles upstream of the Dover landing - and a few miles downstream of a local textile industry.

"I wonder if it could be King Finishing," he said as he scooped up a couple of the clams. The plant often dumps dye residue into the river, he

suspects.

"Sometimes the river turns colors - greenish blue, or reddish. Now it is a dark brown," he said.

Mixon discovered the floating clams Wednesday afternoon as he walked near the river.

"After dinner, I kept noticing it. I told the young-uns, y'all get out of the water. Something ain't right."

While suspicions may turn immediately towards industries which dump organic waste into the rivers, Hall said it is likely the clams were killed by natural causes.

"We're just working the areas to see what (is going on)," he said Thursday. DNR ranger Tim Barrett met Mixon Thursday afternoon and took to the river by boat, to examine and evaluate the situation, he said.

"Of course, people are going to zero in on the industry and blame them for what happens naturally," he said. However, nothing has been ruled out as a cause for the clam kill.

"I've never seen them die like that before," Mixon said. "I've been here since 1985."

But Hall said there was a massive clam kill back in 1990, when the Ogeechee River experienced extraordinarily low levels due to an extended drought, much like current conditions.

"There was a massive die-off in 1990 on the Satilla, Ogeechee, Ocmulgee, Canoochee and other rivers," he said. "No one really knows for sure whether it is the water temperature, or slightly depressed oxygen, or what."

The Ogeechee has not been as low as it is now since 1990. In 1986 it reached a record low, but only for a short period of time, Hall said.

"We had a few die then, but this is the most extended drought in 10 years, and in 1990, it was the most extended drought since the 1960s."

The Environmental Protection Division closely monitors industries such as King Finishing, which manufactures fabrics, Hall said.

"There are no federal regulations that require the removal of color from the organic discharge," he said. "The EPD required (King Finishing) to have a treatment pipe running to the river, with a diffuser. There is not enough organic load (there) to negotiate oxygen depletion (in the river)."

Barrett was not immediately available for comment Thursday, as he was in the river and out of radio range, Hall said.

"He will probably be back out there (Friday), and we'll know more about it then," he said.

Mixon shook his head as he observed the river, with exposed fallen trees and roots that are normally underwater.

"The river is about 3 feet lower than it should be," he said.

Holli Deal Roach can be reached by e-mail at [hdrnews@yahoo.com](mailto:hdrnews@yahoo.com) or by calling 489-9414.

## TechTalk

Surfing the Web —  
a family affair

This Sunday in...  
Statesboro Herald

USA  
WEEKEND

usaweekend.com

## SAVE! UP TO 80% OFF RETAIL



Hunter Douglas Custom Window Fashions  
Mini • Micro • Wood Blinds  
Pleated • Roman • Duette • Roller Shades  
Free Estimates • Service & Installation Available  
Call for in-home consultation

## SOUTH GEORGIA WINDOW TREATMENTS

Lawana Pennington 764-8933

Nicaraguans sleep outdoors as earthquakes continue

Page 17A

96

MORNING!

74

SUNDAY,  
JULY 9, 2000

SERVING SOUTHEAST GEORGIA SINCE

# Statesboro

Volume 30, Number 201

<http://www.statesboroherald.com>

© STATESBORO PUBLISHING CO.

## Experts seek cause of clam deaths

■ Algae overgrowth, other natural causes may be responsible

By Holli Deal Roach  
Herald Staff Writer

The death of thousands of Asiatic clams found floating along the banks of the Ogeechee River could have been caused by a combination of natural phenomena.

According to a Georgia Department of Natural Resources fisheries biologist, low water levels,

high temperatures, diminished oxygen levels and an abundance of blue-green algae could all have contributed to the mass killing of the tiny mollusks.

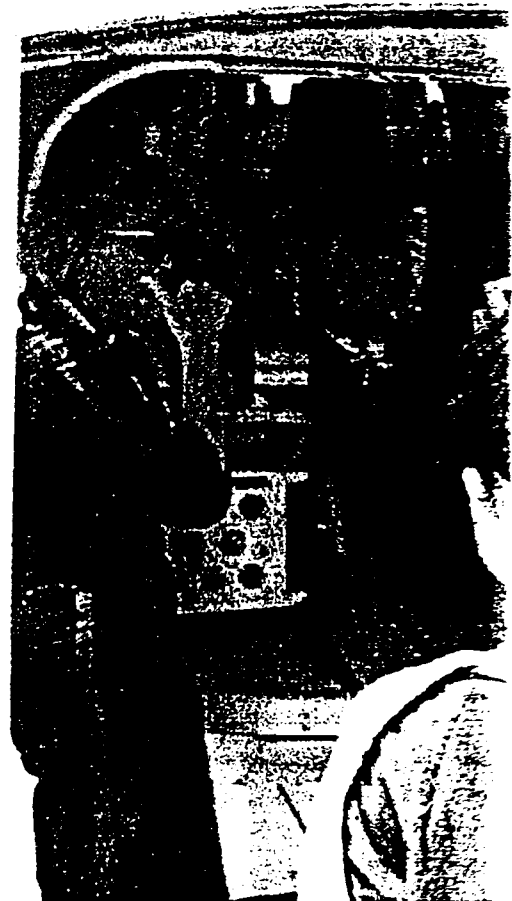
Some local residents who live along the river question whether chemicals dumped into the river by King Finishing, a textiles plant, could be the cause. However, DNR fisheries biologist Tim Barrett found masses of dead clams upstream of the plant, indicating that something else is killing the creatures.

"We put in (the boat) at the hunt-

**CLAMS Continued on Page 8A**

## City interviews for city manager

LIFE



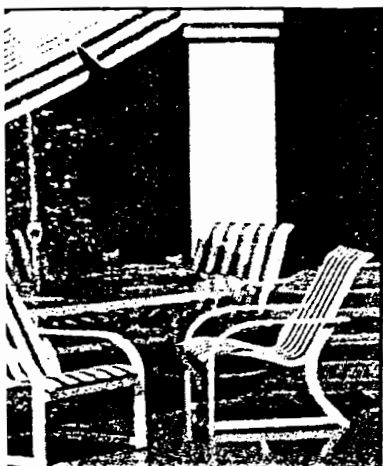
Registered nurse Shorla Deavers, left, ex-Horne, 7; Mark Horn, 4; and their father, Tim House at East Georgia Regional Medical C



stay out of the water, fearing there was something in the river that could harm them, too.

## Natural causes for odd colors

"Something ain't right."



• 352-9001  
thesunporch.com

sboro's  
partment  
Them For



NUTS

Mixon said Thursday, commenting on how the river's waters change colors, often appearing bluish green.

A possible cause for the odd color ties into a possible cause for the clam kill, Barrett said.

"Obviously, the river was much lower a week ago," he said. Extremely low water levels, paired with high temperatures, drastically decreases the amount of oxygen in the water.

These conditions encourage overgrowth of blue-green algae, he said.

Not only does the algae have toxins that could kill river wildlife if found in high concentration, but the dying algae creates "biomasses that consume a lot of oxygen as they decay," he said.

And, the algae overgrowth could explain the funny colors the river has displayed lately as well.

"The dye off the blue-green algae can kill the clams - this (phenomenon) happens in ponds as well," Barrett said. "That could have killed the

corbiculas (clams)."

However, it is not definite whether these conditions were the actual cause of the clam die-off.

Water tests conducted Thursday revealed that oxygen levels in the river are fine, he said.

This doesn't mean the levels weren't severely depleted earlier. Recent rainfall both locally and upriver could quickly correct that problem by infusing oxygen-rich water into the river.

And should high temperatures and dry conditions continue as predicted, more clams are expected to wash ashore.

"I would imagine it is going to happen one or two more times this summer," he said.

## Asiatic clams not native to Georgia

The Asiatic clams were introduced to the United States in the early 1920s and 1930s, not in the 1960s and 1970s as reported Friday in the Statesboro Herald.

DNR Regional Fisheries

Supervisor Carl Hall said Thursday that the nickel-sized mollusks were brought to the area "about 30 or so years ago" by the button industry.

However, Friday he told this reporter he had been mistaken.

In researching the Asiatic clam, which resembles many species of mussels native to Georgia, Hall discovered they were "introduced into western North America" during the '20s and '30s and "spread throughout the U.S."

"I had heard they were brought here by the button industry," he said.

"I don't know, maybe they used them in making buttons, but they were brought here (much earlier) according to this (reference book.)"

However, neither he nor this reporter could find any information as to how the clams were introduced to the United States.

"These things have mysterious die-offs all over the country," he said.

There are several species of freshwater mussels and clams native to Georgia that are similar in appearance to the Asiatic clam.

"They can be eaten, but nobody eats them," he said.

Hall stressed that while algae overgrowth and depleted oxygen could have killed the clams, nothing is definite.

Although clams were found dead upstream of King's Finishing, it is possible that the plant could be "contributing" to the die-off.

"The plant has been in shut-down since June 30," he said.

"It will be shut down until July 10."

During shut-down, the plant still dumps about a quarter of a million gallons of waste into the river. During operation, it pipes approximately 2.5 million gallons of organic waste into the Ogeechee, Hall said.

Holli Deal Roach can be reached by e-mail at [hdrnews@yahoo.com](mailto:hdrnews@yahoo.com) or by calling 489-9414.



Please Vote for  
**KEITH  
BARBER**

Solicitor-General

Bulloch County  
State Court

- Most Qualified • Most Professional
- Most Experienced

- \* Son of Bobbie Mae Spence & Harold Barber - Grandson of Ola & Bud Spence
- \* Great-Grandson of Carrie Bell Johnson & Henry Parrish
- \* Married 25 years to wife Patti - Twin Daughters Meghan & Caitlin. Age 5
- \* BS Criminal Justice Degree / JD Degree / Master of Laws Degree
- \* 11 years Law Enforcement Experience
- \* 15+ years Small Business Owner

*Paid for by the Committee to Elect Keith Barber.*

# OGEECHEE RIVER VALLEY ASSO. INC.

PO BOX 459 -- EDEN, GA. 31307 -- 9/4/96

## AUGUST 30, 1996, -- FEDERAL COURT MANDATES EARLY SCHEDULE FOR EPA TO ESTABLISH TMDLS

SENIOR JUDGE MARVIN H. SHOOB, UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF GEORGIA, ISSUED AN ORDER HAVING NATION WIDE RAMIFICATIONS BECAUSE IT MANDATEDS THAT THE U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA) ESTABLISH TOTAL MAXIMUM DAILY LOADS (TMDLS) -- i. e., POLLUTANT LOAD LIMITS -- FOR WATER QUALITY LIMITED SEGMENTS (WQLS) OF ALL STREAMS, RIVERS AND LAKES IN GEORGIA WITHIN FIVE YEARS. IN SIMPLER TERMS, EPA WILL BE REQUIRED TO COLLECT DATA FROM ALL WATER QUALITY LIMITED SEGMENTS ((WATERS NOT ~~THE~~ MEETING CLEAN WATER ACTS WATER QUALITY). THERE ARE MORE THAN 900 WQLS IN THE WATERS ACROSS THE STATE, THEN IDENTIFY HOW MUCH OF CERTAIN POLLUTANTS A PARTICULAR IMPAIRED STREAM CAN TOLERATE. EPA WILL THEN ALLOCATE THE ALLOWABLE AMOUNT OF THESE POLLUANTS AMONG THE VARIOUS PERMITS. UNDER THE FEDERAL CLEAN WATER ACT, THESE TMDLS WERE TO HAVE BEEN ESTABLISHED BY THE STATE IN 1979.

IN ADDITION, JUDGE SHOOB'S ORDER ENSURES THAT EPA IMPLEMENTS (OR ENSURES THAT THE STATE IMPLEMENTS) THE TMDLS THROUGH THE CLEAN WATER ACT'S PERMITTING PROCESS. FOR EXAMPLE, UNDER JUDGE SHOOB'S ORDER, ONCE A TMDL IS ESTABLISHED FOR A POLLUTED RIVER, STREAM OR LAKE, PERMITS ISSUED TO FACILITIES THAT DISCHARGE POLLUTANTS MUST BE REISSUED OR REVOKED, AS NECESSARY, WITHIN ONE YEAR TO ENSURE THAT THE IMPAIRED WATER COMPLIES WITH WATER QUALITY STANDARDS. IF THE STATE FAILS TO IMPLEMENT THE TMDLS THROUGH ITS PERMITTING PROGRAM, EPA IS REQUIRED TO STRIP THE STATE OF ITS AUTHORITY TO ADMINISTER THE PROGRAM.

THE CASE BEFORE JUDGE SHOOB AROSE OUT OF THE STATE OF GEORGIA'S 17 YEAR FAILURE AND REFUSAL TO DEVELOP AND IMPLIMENT TMDLS FOR IMPAIRED STREAMS AND LAKES ACROSS THE STATE. TO CORRECT THIS SITUATION, IN 1994 THE GEORGIA CENTER FOR LAW IN THE PUBLIC INTEREST INITIATED A SUIT ON BEHALF OF A NUMBER OF ENVIRONMENTAL GROUPS -- THE OGEECHEE RIVER VALLEY ASSO. INC., THE SIERRA CLUB OF GEORGIA, THE GEORGIA ENVIRONMENTAL ORGANIZATION, INC. (GEO), THE COOSA RIVER BASIN INITIATIVE (CRBI) AND TROUT UNLIMITED. THE SUIT WAS AGAINST EPA (FEDERAL) BECAUSE OF ITS FAILURE TO ESTABLISH TMDLS WHEN CONFRONTED WITH GEORGIA'S UNWILLINGNESS TO FULL FILL ITS OBLIGATIONS UNDER THE FEDERAL CLEAN WATER ACT. THERE ARE OTHER CASES ADDRESSING THIS SAME ISSUE PENDING ACROSS THE COUNTRY, AND JUDGE SHOOB'S ORDER SENDS A STRONG MESSAGE TO EPA.

THIS IS A TREMENDOUS VICTORY FOR ALL GEORGIANS AND FOR GEORGIA'S ENVIRONMENT. FOR THE LAST 17 YEARS, EFFORTS TO PROTECT GEORGIA'S RIVERS, STREAMS AND LAKES HAVE FAILED BECAUSE OF THE ABSENCE OF DATA NEEDED TO MAKE INFORMED WATER USE DECISIONS. THE TMDL PROCESS WILL PROVIDE THE TECHNICAL BACK BONE FOR EFFORTS TO PRESERVE AND PROTECT GEORGIA'S RIVERS, LAKES AND STREAMS IN THE FUTURE AS WELL AS CLEANING UP THE PROBLEMS THAT NOW EXIST





streams.<sup>3</sup> But a case appears in the 1880 reports<sup>4</sup> describing a stream in Douglas County, a remarkable stream which "boils up, and after running a few steps, sinks down again"; although mostly an underground stream, its course and direction are distinctly marked by what is called Lime Creek, and by intermittent risings out of the ground. The plaintiff's mill was run by waters of Saddler's Creek at one of its surfacings, and it was alleged that defendant, an upper proprietor, was obstructing its flow so that the mill had become inoperable. The court said that although due credence must be given to the code provision, where the stream emerges at some points and its course is in fact ascertainable, the section does not apply, and trespass may lie. In a later, very interesting case, plaintiffs had erected hotels, bathhouses and cottages with a branch railroad to the Lithia Springs property in Douglas County.<sup>5</sup> The springs on their property were fed by an underground stream of mineral water highly prized by health-seekers. The defendants were alleged to be sinking a well on adjoining lands with the purpose of intersecting the stream and cutting off the flow into plaintiffs' springs without serving any useful purpose to the defendants. The court held that a temporary injunction should have been granted. If the effort is to destroy a known or well-defined subterranean stream, or to divert it from the spring of the lower proprietor, the court said, the plaintiff is not without remedy even though the flow is underground. Or if the evidence shows a case of interference with percolating waters by persons actuated by malice, equitable relief may still be had.<sup>6</sup>

On the other hand, it is said that the complainant must carry the burden of showing that the subterranean stream is one flowing in a well-defined channel as distinguished from mere subsurface percolating water.<sup>7</sup> The mere fact that the plaintiff's spring ceased to flow immediately after the defendant's excavations is not a sufficient basis for a cause of action.<sup>7</sup>

1. § 2868, now Ga. Code Ann., § 105-1408. "The ownership of land extends indefinitely within the bowels of the earth, and the owner has the same exclusive proprietorship in the water which seeps through his soil and collects in the substrata, as in that water which falls from the clouds upon the roof of his house and is collected into a cistern, until the percolating water becomes a part of a well-defined stream. A stream of water has a defined channel; it has banks, and is very distinct from the percolations of subsurface water, which oozes in veins or filters through the earth's strata." Evans, P. J., in *Stoner v. Patten*, 132 Ga. 178, 180, 63 S. E. 897 (1909).

See 1972 Acts, p. 976, Ga. Code Ann., Ch. 17-11.

2. *Id.*

3. *Saddler v. Lee*, 66 Ga. 45 (1879).

4. *St. Amand v. Lehman*, 120 Ga. 253, 47 S. E. 949 (1904).

5. See also *Stoner v. Patten*, 124 Ga. 754, 52 S. E. 894 (1906).

6. *Stoner v. Patten*, 132 Ga. 178, 63 S. E. 897 (1909).

7. *City of Atlanta v. Hudgins*, 193 Ga. 618, 19 S. E. 2d 508 (1942).

Water quality control board has jurisdiction over subsurface waters. See Ga. Code Ann., § 17-503(d) and (f). See also § 6-38, *infra*.

## G. POLLUTION OF WATERS

### § 6-37 In general

Water pollution by municipal sewage and industrial wastes is one of the most pressing problems of modern state government. Conservation of wildlife, natural beauty, wholesome outdoor recreation, sanitation and health, are all menaced by the uncontrolled dumping of chemicals, garbage, and offal into the streams and coastal waters of Georgia.<sup>1</sup> But, it must be remembered on the other hand that the municipalities and great industries responsible for pollution are engaged in useful and often indispensable activities, and some balance must be sought between their

6

procedures to best protect the public interest.

**Section 3. Definitions.** The following words and phrases as used in this Act shall, unless different meaning is required by the context, have the following meaning:

(a) "Department" shall mean the Department of Public Health in the State of Georgia.

(b) "Division" shall mean the Division for Georgia Water Quality Control created within the Department of Public Health.

(c) "Board" shall mean the State Water Quality Control Board of the State of Georgia as created by this Act.

(d) "Waters" or "waters of the State", includes any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and all other bodies of surface or sub-surface water, natural or artificial, lying within or forming a part of the boundaries of the State which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

(e) "Person", means any individual, corporation and partnerships and other unincorporated associations and may extend and be applied to bodies politic and corporate.

(f) "Pollution", means any alteration of the physical, chemical, or biological properties of the waters of this State, including change of the temperature, taste, or odor of the waters, or the addition of any liquid, solid, radioactive, gaseous, or other substances to the waters or the removal of such substances from the waters, which will render or is likely to render the waters harmful to the public health, safety, or welfare, or harmful or substantially less useful for domestic, municipal, industrial, agricultural, recreational, or other lawful uses, or for animals, birds, or aquatic life.

(g) "Sewage", the water-carried waste products or discharges from human beings or from the rendering of animal

pr  
lic  
ge  
pre

(  
sta  
ind  
of a

(  
star  
cau:

(  
pipe  
all o  
ther  
othe

(  
ular  
the i

Se  
point  
Meet  
here:  
Divis  
Qual  
and a  
State  
comp  
nor.  
shall  
ative  
of G  
Cont  
ipal g  
trial  
ernm

formula, process or methods used in any manufacturing operations carried on by him or under his direction, or any confidential information concerning business activities carried on by him or under his supervision.

**Section 17. Rights of Action not altered — Riparian Owner's Rights.** Nothing in this Act alters or abridges any right of action now or hereafter existing in law or equity, civil or criminal, nor is any provision of this Act construed as stopping any person, as a riparian owner or otherwise, from exercising his rights to suppress nuisances or to abate any pollution now or hereafter existing.

**Section 18. Information Obtained by Board Not Admissible in Evidence and Private Actions.** Information directly affecting any person obtained by duly authorized agents of the Board from studies, surveys, investigations, reports or from other sources as provided in this Act shall not be admissible in evidence in any actions at law or equity involving private rights or riparian owners other than the State.

**Section 19. Attorney General to Represent Board.** It shall be the duty of the Attorney General to represent the Board and/or its agents or designate some member of his staff to represent them in all actions in connection with this Act.

**Section 20. Emergency Orders by Board; Immediate Effect; Hearing.** Whenever the Board finds that an emergency exists requiring that such action be taken as it deems necessary to meet the emergency notwithstanding any other provisions of this Act, such order shall be effective immediately. Any person to whom such order is directed, shall comply therewith immediately but on application to the Board shall be afforded a hearing as soon as possible. On the basis of such hearing, the council shall continue such order in effect, revoke it or modify it.

**Section 21. Application by Board for Injunction to Prevent Violation of Act.** Whenever in the judgment of the Board any person has engaged in or is about to engage in

any  
viola  
the  
or if  
of tl  
to e  
and  
the  
enga  
rary  
gran  
rem

So  
viola  
refu  
issu  
and,  
by  
shal

So  
Uni  
here  
Stat  
trol

(1  
for  
(  
able  
ver

(  
any  
of t

(  
in  
mea  
wit

July 20, 1990

Editor  
Savannah Morning News  
P. O. Box 1088  
Savannah, Georgia 31402

Dear Sir:

Headline - - - Ledbetter Quits DNR Post. After reading this and another article by O. Kay Jackson, (resignation applauded), there are more questions than answers.

I am not the smartest person in the world, but I do have enough sense to ask the questions.

- # 1 - Was Ledbetter connected with Law Environment Inc. before he resigned from DNR?
- # 2 - Is Mr. Young still connected to Law Environment Inc. in any way?
- # 3 - If not, what effect would his having been employed by Law Environment Inc. have on cleaning up the environment if elected Governor?
- # 4 - Has Lt. Governor Zell Miller ever worked for Law Environment Inc.?
- # 5 - What part has Law Environment Inc. played in our country becoming as polluted as it has? ( There are 15 offices across the country).
- # 6 - Did Law Environment Inc. have Kings Finishing Co. for a client?
- # 7 - Is this a legal maneuver to sell government favors to industry?  
See Findley Construction co., cited for filling wetlands in Bulloch Co.  
Yet Kings Finishing is allowed to destroy the Ogeechee River system.
- # 8 - Has there been any court, EPA, EDP, or DNR action against anyone that was a client of Law Environment Inc.?
- # 9 - Why did the mussels or so-called clams, die only in that part of the river adjacent to Kings Finishing? We were told that it was a natural occurring thing that happened all the time. In my sixty plus years on the Ogeechee River, this was my first time to witness this. We checked the mussels at Rockyford bridge, they were alive. The evening news aired a tape showing clear water, and swimming minnows- this was also at Rockyford, Georgia. The green algae laden water and sample taken were at Oliver bridge, below Kings Finishing.
- # 10 - Did any of this have anything to do with Ledbetters resignation?

Today I was told that some of the dwellings of Richmond Hills water supply was contaminated by Coliform bacteria.

A few years ago I was involved in finding old deep wells that could possibly contaminate the aquifier, by allowing surface water to flow back into it. I turned in a well on Well Island, across from Richmond Hill. I have a letter somewhere in my files thanking me for this. The point is, that any break in the aquifier cap rock, old well or injection well, is a point of entry for pollutants into the aquifier. When the Ogeechee is low, you can find many of these breaks. In times of drought with high pumpage from the aquifier, water will flow through these breaks or old wells, back into the aquifier. Does our water supply have to be destroyed before we do something about it? We think that it is time for a thorough investigation into the pollution of our environment.

Concerned

  
W. J. Hunter

Bd. of Dir./ Ogeechee River Valley Assoc.





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

OCT 24 2000

The Honorable Jack Kingston  
Member, United States  
House of Representatives  
6605 Abercorn St., Suite 102  
Savannah, GA 31405

Dear Congressman Kingston:

This letter completes our September 21, 2000, response to your letter of August 25, 2000, on behalf of your constituent, Mr. William Hunter regarding the die-off of the Asiatic clam, *Corbicula* sp., on the Ogeechee River in Georgia.

The Environmental Protection Agency has completed its investigation of the incident and, after consulting with Georgia Environmental Protection Division (GAEPD), has come to the conclusion that the observed clam die-off can be attributed to the severe low river flow conditions attributed to the drought. The low river flows were well below the low flow conditions used to calculate protective National Pollutant Discharge Elimination System (NPDES) permits. Such low flow conditions enable water temperatures to rise to dangerous levels for many species. In addition, natural and NPDES permitted chemicals become more concentrated because there is less water available to dilute them. GAEPD indicated that all facilities were in compliance with their permits during this drought period.

If I may be of further assistance, please feel free to contact me or the Office of External Affairs at (404) 562-8327.

Sincerely,

A handwritten signature in black ink, appearing to read "John H. Hankinson, Jr.", is written over a horizontal line.

John H. Hankinson, Jr.  
Regional Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

SEP 21 2000

The Honorable Jack Kingston  
Member, United States  
House of Representatives  
6605 Abercorn St., Suite 102  
Savannah, GA 31405

Dear Congressman Kingston:

Thank you for your letter of August 25, 2000, on behalf of your constituent, Mr. William J. Hunter regarding the die-off of the Asiatic clam, *Corbicula* sp., on the Ogeechee River in Georgia.

The Environmental Protection Agency appreciates receiving the information and is currently investigating additional information to determine if a cause for the event can be determined. EPA is evaluating discharge records from facilities in the area to determine if violations of National Pollutant Discharge Elimination System permits occurred during the time of the event. We are also discussing the event with the Georgia Environmental Protection Division to determine if they have information that would lead to identification of the cause. We will inform your office of the results of our investigation within 30 days.

If I may be of further assistance, please feel free to contact me or the Office of External Affairs at (404) 562-8327.

Sincerely, \_\_\_\_\_

A handwritten signature in black ink, appearing to read "John H. Hankinson, Jr.", written over a horizontal line.

John H. Hankinson, Jr.  
Regional Administrator



**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1034 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX

AL-0000906



**Congress of the United States**  
**House of Representatives**

April 6, 2000

**Committee On Appropriations**

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

Mr. John Reeder  
Deputy Assoc. Admin. of Congressional Affairs  
Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington, DC 20460

Dear Mr. Reeder:

One of my constituents, anonymously, has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by my constituent, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Bruce Bazemore. He can be reached at (912) 352-0101.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

**Reply to: Bruce Bazemore**  
**Congressman Jack Kingston**  
6605 Abercorn St., Suite 102  
Savannah, GA 31405

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1034 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX



**Congress of the United States**  
**House of Representatives**

**INTER OFFICE MEMORANDUM**

**Committee On Appropriations**

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

DATE: April 6, 2000

STAFF: bab

CONTACT MADE: BY PHONE \_\_\_ BY LETTER \_\_\_ IN PERSON X

NAME AND ADDRESS:

Anonymously  
Savannah, GA

TELEPHONE \_\_\_\_\_ (HOME) \_\_\_\_\_ (OFFICE)

NATURE OF INQUIRY:

Our constituent requests that the EPA put a hold on the Tier 2 Rule and do a study, "a new economic analysis in light of these developments". The study should focus on:

- availability of oil
- Palladium, and the Russians lock on this product
- Rhodium, also used in catalytic converters
- Price of Palladium
- Diesels reduce fuel consumption
- New developments in TDI diesels

Please look into this and advise me. Thank you.

# CSERE

# CSABA

Will the  
new  
smog laws  
work?

**D**epending on the smog-promoting substance in question, it would take between 20 and 100 brand-new cars to produce the pollution emitted by a single 1968 car. Yet less than two weeks before the great Y2K nonevent, President Clinton announced a major package of much stricter motor-vehicle emissions standards, proclaiming that despite the progress made over the past 30 years, the air was still not clean enough.

To understand what's going on here, we need to look at auto emissions three ways. First, there are the standards that new cars currently meet. These are the National Low-Emission Vehicle (NLEV) standards. They took effect in 1999, and as I indicated at the top of this column, they are very strict for carbon monoxide (CO), unburned hydrocarbons (HC), and oxides of nitrogen (NOx).

Second, we need to look at the standards that were in place when the 214 million cars and light trucks in the current fleet were built. Since the fleet turns over at about seven percent per year, few vehicles meet the current NLEV standards. The previous major change in the regulations came with the Tier 1 standards, which were phased in between 1994 and 1996; they apply to about 30 percent of the fleet. The vast majority of the fleet was built to standards set in 1981. Although almost 20 years old, these standards are very strict on CO and HC emissions but allow five times as much NOx as the current NLEV requirements.

The third aspect of auto emissions involves the difference between the mandated standards and the actual reduction of the controlled pollutants in the atmosphere. According to EPA statistics, from 1970 to 1997 CO emissions from motor vehicles dropped 43 percent; HC emissions dropped 60 percent; and NOx dropped just five percent. All three real-world reductions are far less than the 90-percent-plus reduction that the strict tailpipe emissions standards would suggest.

In his speech, the President pointed to one reason for the higher-than-expected real-world emissions: Americans are driving far more than they used to. According to Federal Highway Administration statistics, vehicle miles increased from 1.11 billion in 1970 to 2.56 billion in 1997. But even allowing for the 131-percent increase in miles, the tighter emissions standards should have achieved between 60 and 80 percent lower pollutants than the quantity actually measured in the atmosphere.

Another reason for the increased emissions is the growth of the truck fleet from about 19 million in 1970 (17 percent of the fleet) to about 80 million today (37 percent). Throughout this period, most trucks have been allowed to emit more pollutants than cars, so the current popularity of trucks would slow the emissions reductions of the entire vehicle fleet.

Then there's the disparity between the low-speed driving cycle on which emissions are measured and the considerably more aggressive pace of real-world driving. This disparity was acknowledged 15 years ago when the official city fuel-economy figure, which is derived from the emissions test, was discounted by 10 percent to bring it closer to reality.

But perhaps the biggest difference between theoretical and real emissions performance is that many of the cars on the

road are spewing far more pollutants than the standards call for. Since the mid-1970s, emissions levels were supposed to be guaranteed for 50,000 miles of driving. This guarantee rose to 100,000 miles with the Tier 1 standards. But there are many vehicles on the road with far higher mileage. And others are malfunctioning and need repair.

The Administration's new package of regulations, known as Tier 2, is intended to address many of these issues. To deal with the large numbers of

higher-polluting trucks on the road, T2, as I'll call it, consolidates the emissions regulations for cars and light trucks. No longer will pickups, vans, and SUVs—those that weigh as much as 8500 pounds when loaded—be allowed exhaust-emissions standards up to four times as high as those permitted for cars.

Moreover, T2 even applies to certain vehicles above this weight limit by defining a class called medium-duty passenger vehicles. Think of this as the Ford Excursion class.

Not only will T2 require trucks to meet the same standards that cars do, but the new standards are tougher than ever before. Trucks must now reduce emissions of all major pollutants. But the big change for cars is the order reducing NOx emissions to 0.05 gram per mile. That's about 1/100th of the NOx produced by cars in the '60s and a fourth of the NOx allowed by the year-old NLEV standards.

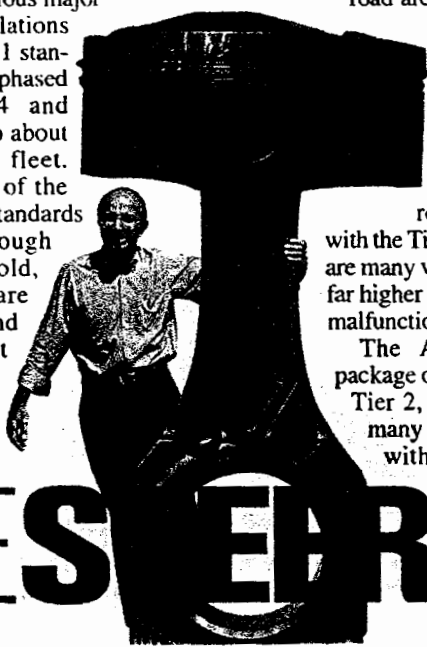
What's more, to better ensure that vehicles on the road run as cleanly as they do in the test lab, two new emissions tests have been added to the certification process. The SCO3 cycle is designed to measure emissions with the air conditioner running, a mode that the current test simulates only crudely, and the US06 cycle is a lead-foot test with several hard accelerations and a maximum speed of 80 mph. In addition, the duration for which T2 emissions must be guaranteed is increased from 100,000 to 120,000 miles.

There are also stricter new standards for evaporative emissions (whiffs of hydrocarbons emanating from fuel tanks), particulate emissions (these soot limits are so tight they will likely outlaw diesels for cars and light trucks), and rules mandating exhaust-system designs that are almost completely leak-free, even after quick-and-dirty maintenance at the corner muffler shop.

Collectively, these new smog laws put a major engineering burden on automakers. But T2 does include practical provisions to make the compliance task more manageable.

For starters, the new rules will phase in over time so that every vehicle and powertrain combination doesn't have to be reengineered during a single year. For cars, T2 rules will go into effect between 2004 and 2007. Trucks have until 2009.

What's more, whereas current smog standards apply to each and every vehicle on the road, the new standards apply to corporate fleet averages. This means that a Chevy Suburban can pollute somewhat more than the fleet average, as long as GM sells a few extra-clean Saturns to



# THE STEERING COLUMN

make up the difference.

But perhaps the T2 provision most helpful to automakers calls for a reduction in the amount of sulfur in gasoline. That's critical because sulfur produces byproducts that contaminate and reduce the effectiveness of catalytic converters, especially over time. So, by 2006, gasoline will be allowed an average sulfur content no higher than 30 parts per million, a big reduction from the current 500 parts per million.

T2 contains endless other provisions, not to mention incredibly intricate instructions for phasing in the standards and for conducting the compliance tests. Overall, this new package has an uncomfortable resemblance to the IRS tax code.

The big question is how much good will the new laws do? Putting pickups, vans, and SUVs on the same regulatory footing as cars seems eminently sensible. And although they are time-consuming, the additional, more realistic test cycles also seem justified. Reducing the sulfur in gasoline is well worth the two cents per gallon it will cost.


The draconian reduction in the NO<sub>x</sub> standard, however, makes little sense. Not only are the current NLEV standards just being implemented, but T1 standards are only five years old. That means that two-thirds of the vehicles on the road were built to the 1981 NO<sub>x</sub> standards. Shouldn't we wait for the effects of the two more recent emissions crackdowns before tightening the standards yet again?

Moreover, the T2 standards won't take effect for some time. With the final phase ending in 2009 and only about seven percent of the vehicle fleet turning over annually, it will be about 2015 before two-thirds of the vehicles on the road incorporate the T2 requirements.

Here's a better idea. We could eliminate about half of the vehicle-generated pollution next year simply by repairing or removing the 20 or so million vehicles in the fleet that are gross polluters. Identifying them would not require odious vehicle inspections. They could easily be identified with recently developed drive-by emissions sensors that operate much like radar guns.

Unfortunately, drivers at the lower end of the socioeconomic spectrum own most of these vehicles. Not even "Ozone" Al Gore is eager to propose a law that would force them to clean up their cars.

To the atmosphere, of course, the pollution spewing from vehicles owned by the less affluent is no less harmful than the smog produced by luxury cars of the wealthy. Without eliminating the vehicles that pollute the most, any plan for cleaning up the air will be difficult, expensive, time-consuming, and ultimately unsuccessful. And that, in a nutshell, describes the new Tier 2 standards.



**BONDURANT**

**FORD QUALITY. BONDURANT EXCELLENCE.**

**1-800-842-RACE**  
PHOENIX, ARIZONA  
[www.bondurant.com](http://www.bondurant.com)

Logos for various racing series: Sprint, NASCAR, Craftsman Truck Series, XFL, IndyCar, PPG Indy Car World Series, QMI, PIRTEC, Castrol, BELL, TTC, and others.



**500 HOURS FREE!**

*in a month*

**SIGN UP INSTANTLY BY PHONE!**  
**CALL 1-800-764-0163 TODAY!**

- ✓ **FREE TRIAL!** No Risk! No Commitment!
- ✓ **FREE!** 24 hour customer service by phone!
- ✓ **EASY!** Set up Internet Connection in a snap!
- ✓ **ALL NEW!** More high speed Internet Access!
- ✓ **ALL NEW!** 7 channel entertainment!

**AMERICA Online**  
So easy to use  
no wonder it's #1

**The Easiest Just Got Easier!**

Availability may be limited, especially during peak hours. 500 HOUR TRIAL MUST BE USED WITHIN ONE MONTH OF INITIAL SIGNUP. TO AVOID BEING CHARGED A MONTHLY FEE, SIMPLY CANCEL BEFORE TRIAL PERIOD ENDS. Premium services carry additional charges. All promotional offers surcharges may apply in AK, even during trial time. Members may incur telephone charges on their phone bill, depending on location and calling plan, even during trial time. Offer is available to new members in the U.S., age 18 and older, and a major credit card or checking account is required. © 2000 America Online, Inc. All rights reserved.

# EV watch

## Environmental groups knock diesel HEVs

**A**s the world's automobile manufacturers put their latest creations on display at the January shows, Ford Motor Co. and General Motors Corp. must have expected nothing but praise. Their prototype hybrid electric vehicles (HEVs) had reached the holy grail of fuel economy—3 liters per 100 kilometers (80 mpg).

The Ford Prodigy and the GM Precept are the first fruits of the Partnership for a New Generation of Vehicles (PNGV), a collaboration between the U.S. government and the Big Three automakers aimed at developing technologies to make cars more fuel efficient and environmentally friendly.

If so, they were disappointed. Environmental groups like the Sierra Club refused to share the companies' delight in the demonstration vehicles. "The Ford and GM announcements are frauds," said Dan Becker, director of Sierra Club's global warming and energy program, adding that




Prototypes of Ford's Prodigy [above] and GM's Precept, with fuel efficiencies of 3 L/100 km (80 mpg), were met with derision from environmental groups when unveiled earlier this year.

"these cars are prototypes that they have no intention of putting into production."

Also unimpressed was the Environment News Service, which reported that the vehicles' diesel engines would violate Federal clean air rules, including the latest U.S. Environmental Protection Agency (EPA) standards on NO<sub>x</sub> emissions. And when a

GM executive, asked about the tightening of emissions standards, responded with the baffling, "If we are ever going to deliver true environmental benefits with lower emissions, we've got to convince the government to relax the NO<sub>x</sub> standards," the Clean Air Trust labeled the company its "Clean Air Villain of the Month."



On-line professional development opportunities for engineers available through Penn State's World Campus can help you

# Advance

as a leader in the industry without leaving home or work.

- Reliability Engineering
- Semiconductor Reliability
- Geographic Information Systems
- Fundamentals of Engineering
- Antenna Engineering

[www.worldcampus.psu.edu](http://www.worldcampus.psu.edu)

PENNSTATE



World Campus

Penn State is committed to affirmative action, equal opportunity, and the diversity of its workforce. U.S. OCE 89-1861 and

Select No. 11 WebAdvantage

# TUM Technische Universität München

Department of Electrical Engineering and Information Technology has an open position

## for an Associate Professor in VLSI Design

The appointment may start as soon as possible and is limited to 5 years.

The focus of scientific work is on architecture of electronic circuits (hard- and software co-design) and their application to information and signal processing in complex telecommunication systems under technological and economic constraints. Applicants should bring expertise in these fields as well as related publications of high international standard and/or related patents. Experience and strong personal interest in the leadership of multidisciplinary projects in cooperation with industry are expected. Teaching of students, graduates and researchers, including English-Language courses as part of a master's program, is regarded as a valuable part of the activities. Some years of industrial experience are recommended.

For an appointment, a Ph.D. in electrical engineering or a closely-related field or a strong record of research experience, also from outside of universities, is required, as well as commitment and potential for teaching. Applicants must not be older than 52 years of age. German language or German citizenship are not required. The Technische Universität München encourages applications from women or disabled persons.

Applicants should send a letter of application, resume and list of references by 31.3.2000 to

Dekan der Fakultät für Elektrotechnik  
und Informationstechnik  
Technische Universität München  
D-80290 München  
GERMANY  
Email: [dekanat@el.tum.de](mailto:dekanat@el.tum.de)

## EV watch

A Ford spokesman, pointing out that the environmental groups have disregarded the history of the PNCV, told *IEEE Spectrum*, "Their comments are simply misguided." He noted that the auto manufacturers voluntarily partnered with the Government and have spent hundreds of millions of dollars on reaching PNCV's goals—only to have the Government change the ground rules mid-game.

One of the program's original goals, based on the EPA's Tier I emission standard, called for a 90 percent emission reduction from 1993 levels (the year PNCV was formed). After a review of the technology, it was agreed that diesel engines were the way to go because they would provide a fuel efficiency of 3 L/100 km while experimental emissions-reducing technologies would allow them to meet the Tier I standard.

The Ford spokesman defended the GM executive's statement, saying that as the Big Three neared the goals they and the Government had agreed upon, the EPA proposed a new set of standards (called Tier II) that would require tailpipe emissions to be 80 percent less than Tier I levels. He added: "[The introduction of] Tier

II made it tough to meet the goals of the program with diesel, but the Prodigy and GM's Precept would not violate Tier II regulations because they have not taken effect yet." The PNCV, he said, is still committed to developing production-ready prototypes of fuel-efficient green cars, but he insisted that tailoring the prototypes to the new rules will take time.

The Sierra Club charged into the discussion of alternative-fueled vehicles when it presented its first-ever product award to the gasoline-powered Honda Insight at the Los Angeles Auto Show. The environmentalist group called the Insight—the first hybrid-electric vehicle sold in the United States—"the best car on the market." Sierra Club executive director Carl Pope lauded Honda for presenting "a real car that real people can buy and use" and for being "committed to marketing [it] in all 50 states."

When asked about the Insight, the Ford spokesman replied, "I'm sure that the Honda Insight is a fine piece of engineering, but it's a two-seater. Ford plans to introduce a five-passenger hybrid that will be available for sale nationwide by 2003. We aim to produce a family car that provides the benefits of fuel efficiency and low emissions as well as the comforts that American con-

sumers expect." He also noted that Ford is working on direct hydrogen fuel cells as well as on methanol reformers, which generate hydrogen on-board a vehicle from stored methanol.

### Don't cry for me

**C**ontrary to recent reports, GM's all-electric EV1 is not quite dead yet. In January, the Associated Press issued a story implying that the EV1's anemic sales (137 leased in 1999) and GM's decision to use the Lansing, Mich., plant where it had been produced, to assemble another line of cars meant that it had reached the end of the road. The Detroit carmaker immediately responded with reassurances that production of the zero-emission vehicle would continue.

A representative at Saturn headquarters (EV1s are leased through Saturn dealerships) noted that the battery-powered vehicle will go on being produced in runs of 500 cars. The timing of these production runs, the most recent of which was in November, is set by consumer demand.

MICHAEL J. RIEZENMAN, *Editor*  
with reporting by WILLIE D. JONES  
Consultant: Victor Wouk,  
Victor Wouk Associates

# MOVING?

PLEASE LET US KNOW 4 WEEKS IN ADVANCE

Name \_\_\_\_\_ IEEE Member # \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State/Country \_\_\_\_\_ Zip \_\_\_\_\_

- Please print.
- This notice of address change will apply to all publications to which you subscribe.
- List new address above.
- If you have a question about your subscription, please call 1-800-678-IEEE.
- Mail to:

IEEE Service Center  
ATTN: Customer Service Operations  
445 Hoes Lane  
PO Box 1331  
Piscataway, NJ 08855-1331  
Fax: 732-981-9667

## SMART ANTENNAS: Selected Readings

edited by Theodore S. Rappaport, Virginia Tech

### THE BEST OF THE BEST!

In this compendium, you will find some of the classic publications and most promising research papers which have and will continue to impact the emerging field of wireless adaptive arrays. The papers have been compiled based on graduate student research at the Mobile and Portable Radio Research Group (MPRG) at Virginia Tech.

### CAREFULLY SELECTED BY A LEADING EXPERT

This book is a handy, single-source reference to assist graduate students, researchers, and practitioners involved with the design, development, and deployment of smart antenna technology.



1998/500pp  
List Price: \$69.95  
Member Price: \$49.95  
IEEE Product No. SR113-QZR  
ISBN 0-7803-4800-1

24 Hours A Day • 7 Days A Week

Phone 1(800)678-IEEE (toll-free, USA and Canada)  
or 1(732)981-0060, or Fax 1(732)981-9667  
E-mail: [customer-service@ieee.org](mailto:customer-service@ieee.org)  
Visit [www.ieee.org/cab](http://www.ieee.org/cab)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
AIR AND RADIATION

The Honorable Jack Kingston  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Kingston:

Thank you for your April 6, 2000, letter to the Environmental Protection Agency. I am happy to provide some information to address the issues raised by your constituent about our new Tier 2/Gasoline Sulfur program.

As you may know, in December President Clinton announced our final action on this major air pollution control program, which was then published in the Federal Register on February 10, 2000. Under this program, beginning in 2004, auto manufacturers will begin selling much cleaner vehicles and oil refiners will begin producing gasoline with much less sulfur. The final rule followed an extensive public process last year through which we received comments from over 100,000 interested parties. Administrator Browner and I also met a number of times with top executives from the auto vehicle and engine manufacturing industries, the oil refining industry, and others. As a result, we revised our proposed rule in ways that responded to many key concerns while maintaining the large air quality benefits of the program.

Each of the concerns raised by your constituent were also raised by others during the public comment period, and we have addressed each of them in writing as a part of the final rulemaking package. Let me highlight two of our key conclusions that respond to your constituent's questions:

- As with all our vehicle emission control regulations, the Tier 2/Gasoline Sulfur program does not require that vehicle manufacturers apply any particular emission control technology or use any particular fuel type (gasoline, diesel, natural gas, etc). What is important is that the vehicle meet the emission standards. Manufacturers are free to balance their economics and to develop and market any vehicle technology operated on any fuel type they wish.
- We do not expect this program to have major impacts on emission control system designs and thus on costs and materials. For example, the program will result in relatively minor improvements in today's catalytic converters, with no major changes in the amounts and types of precious metal material used in the catalysts.



Your constituent may want to visit the Internet web site we have devoted to the Tier 2/Gasoline Sulfur program ([www.epa.gov/otaq/tr2home.htm](http://www.epa.gov/otaq/tr2home.htm)). Our key rulemaking documents, including our extensive Response to Comments document, are available at this site.

Thank you for interest in this important new air quality program.

Sincerely,

A handwritten signature in black ink that reads "Bob Perciasepe". The signature is written in a cursive, slightly slanted style.

Robert Perciasepe  
Assistant Administrator

T.Wysor:mab:ASD:214-4334:04/18/2000:wpd:Control No. AL-0000906

Reviewed by:DZINGER:564-4409:6401-A:04/18/00:G:\CONTROLS\AL-0000906



**JACK KINGSTON**  
1st District, Georgia.

WASHINGTON OFFICE  
1034 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX

AL-0000467



**Congress of the United States**  
**House of Representatives**

February 10, 2000

Mr. John Reeder  
Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington, DC 20460

Dear Mr. Reeder:

One of my constituents, Mrs. Jean Bridges, has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by Mrs. Bridges, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Trish DePriest. She can be reached at (912) 352-0101.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

Please reply to:

Congressman Jack Kingston  
6605 Abercorn St., Suite 102  
Savannah, Georgia 31405  
ATTN: Trish DePriest

Committee On Appropriations

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

FEB 10 REC'D

# City of Glennville

JEAN BRIDGES, MAYOR



February 8, 2000

CITY COUNCIL

Willie Bland

Randy King

Gail Rogers  
Mayor Pro Tem

Dennis Strickland

COURT RECORDER

Joe McGovern

CITY CLERK

Teresa Pazderski

CITY ATTORNEY

Hugh McCullough

Honorable Jack Kingston, Member of Congress  
The Enterprise Building  
6605 Abercorn Street Suite 102  
Savannah, GA 31405

Dear Congressman ~~Kingston~~ <sup>Jack</sup>,

The City of Glennville is in the process of constructing a new wastewater plant.

We have been working toward this since 1993. We finally secured the land we need. The plans have been drawn; easements have been secured, except for four, hopefully we will have them soon. We thought we would be able to start this project by early March.

Mr. Carl Hofstadter, City Engineer meet with the City Council yesterday and presented us a memorandum from ATM stating the City may not be able to get the last permit we need from EPA. I am sending you a copy of this memorandum, if you can help us with this problem we will appreciate it very much.

The City is paying a fine of \$200.00 each month to EPD. We are in real need of constructing this plant.

Thank you for your help in this matter.

Please contact me at City Hall, 912-654-2461 or Carl Hofstadter at 912-757-1169 if further information is needed.

Sincerely,

Jean Bridges  
Mayor, City of Glennville



## MEMORANDUM

---

TO: Kelvin Seagraves, John Fry, Carl Hofstadter

FROM: Tony Maglione

DATE: February 2, 2000

RE: COE Permitting Glennville

---

As we discussed last week, we wanted to provide you with a detailed chronology of the events surrounding our US Army Corps of Engineers (COE) permit for reconstruction of impacted wetlands for the Glennville Created Wetland WWTP project. As you well know, the COE has denied ATM's request for use of a COE Nationwide 27 Permit process for wetland encroachments. The history of how we have gotten to this point is as follows:

When ATM began initial sizing and design of the created wetlands wastewater treatment system, we determined that the configuration of the current site would not provide sufficient wetland treatment cells to achieve the 1.5 mg/l NH<sub>3</sub>-N discharge requirement set by EPD. The only means by which to reasonably meet this discharge requirement was to include the restoration of approximately 26 acres of high disturbed wetlands on the site into the created wetlands portion of the treatment process. We believe, as we still do, that since the existing wetland systems were seriously damaged as a result of timbering prior to purchase of the site by the City of Glennville, that restoring the wetlands to their original state and including them in the total areas used and owned by the City for wetland treatment would be an excellent environmentally sound solution to the problem we inherited.

On June 7, 1999, Mr. Carl Hofstadter and Mr. John Fry of Hofstadter, Associates and Ms. Natalie Schanze and Mr. Tony Maglione of ATM met at the Savannah, GA COE District office with Mr. David Crosby of the COE to review our proposal. Mr. Crosby was at that time the COE staff person responsible for permits in Tattnal County. After some explanation of our plan, Mr. Crosby advised us that he thought that since we were restoring wetlands and not filling them that the COE would not object to our plan. When we asked Mr. Crosby for the procedure we would need to follow to obtain the needed COE permits, we were specifically advised to use COE Nationwide 27 Permitting. Nationwide 27 is a more simplified and less stringent permitting means than an COE Individual Permit. Please remember, at that time, ATM was prepared and had envisioned having to use the COE Individual Permit process, but solely on Mr. Crosby's advise and recommendation prepared the Nationwide 27 Permit instead.

To ensure that we would not have any problems from a DEP aspect, the same group from Hofstadter and ATM met with Mr. Pete Maye of DEP in Savannah shortly after meeting with Mr. Crosby. We reviewed with Mr. Maye our request made of the COE and asked if DEP would have any problems with our concept. Mr. Maye advised us that he believed our request to be a reasonable one but that EPD in Atlanta would have to review it. We advised Mr. Maye of the COE's recommendation to use COE Nationwide 27 Permitting and he had no objection to what the COE had advised.

When the design of the project had progressed to a point where we could submit the permit, ATM submitted the COE Nationwide 27 Permit Application to the Savannah COE on October 19, 1999. The COE had 10 days to process the permit application and 30 days for agency review. During the 30-day period the permit was available for review, we were not made aware by the COE of any objections from any agency. We did not learn until mid January 2000 that Mr. Keith Parsons of EPD had provided an objection to the permit. On January 20, 2000 we learned that Mr. Bob Lord of Region IV EPA had object to the permit as well. We strongly believe based upon what our sources at the COE and EPD have told us, that Mr. Parsons prompted Mr. Lord to object to the permit.

Unfortunately, after extensive checking on our part, we learned from the COE that Mr. Parsons of EPD had objected to the permit application on November 29, 1999, within the 10-day processing and 30-day review period. However, we have learned that Mr. Lord at EPD did not send his comments to the COE until January 20, 2000 well outside the normal review period. Mr. Parson's and Mr. Lord's major objection was the use by the COE's of its own Nationwide 27 Permitting process. They strongly believed the COE was misapplying its own permitting process.

On January 20<sup>th</sup> we offered a number of solutions to the issue to EPD, EPA and the COE in order to resolve and mitigate any objections EPD or EPA may have. Unfortunately, on January 21<sup>st</sup> we were advised by Mr. Crosby of the COE that a Mr. Sam Collinson of the COE Regulatory Headquarters in Washington, DC had reviewed the objections and agreed with EPD and EPA and disallowed the use of the COE Nationwide 27 Permit process for Glennville. We were advised on the 21<sup>st</sup> to begin the permitting process over and to prepare and submit a COE Individual Permit application.

We have already begun preparation of the COE Individual Permit application and should have this work completed by the end of the second week in February. We will need to take the current permitting information and add an alternative assessment to it along with an assessment of potential environmental impacts the project may have. These are required elements of the individual permit application that were not required as part of the Nationwide 27 Permit process.

Once the Individual Permit application is filed with the COE, it is put out for 30 to 60 days for agency comments and review. Agencies who will review the permit will include:

- ◆ EPD
- ◆ EPA
- ◆ US Fish and Wildlife Service
- ◆ National Marine Fisheries
- ◆ GA Department of Natural Resources
- ◆ GA State Historic Preservation

When comments are received, ATM will need to respond to them, then the permit will be put back out for an additional 30 day public comment period. Comments will again be received, reviewed by the COE and a final determination made as to whether or not to issue the permit. Fortunately, we believe that the COE Individual Permit process will be able to parallel the current approval, bidding and award timetable and should be resolved prior award of any contract for construction.

We anticipate that we will have to work closely with EPD and EPA to educate them as to the specifics of the project and the environmental benefits of our permit. We have received a letter from EPD removing their objections to the Nationwide 27 Permit application but this is no assurance they will not try to object to the COE Individual Permit application. We strongly

believe once the purpose and benefits of the permit are known that we will not receive any major objections from National Marine Fisheries, GA DNR, or GA State Historic Preservation. We do not know how the US Fish and Wildlife Service will react to the permit application but plan to work with closely with them as well to educate them as to the need and benefit of the permit.

We sincerely regret this permitting issue has evolved to this level. Throughout our history as a company have we never found any regulatory agency that misapplied its own policies and then refused to work with the permittee on correction of their own error. Please rest assured we would pursue this permit application as diligently as possible. We will also be pleased to meet with the City of Glennville to review this issue and answer any questions they may have concerning the permit or created wetland treatment system.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

MAR 17 2000

Honorable Jack Kingston  
Member, United States  
House of Representatives  
6605 Abercorn Street, Suite 102  
Savannah, Georgia 31405

Dear Congressman Kingston:

Thank you for your letter dated February 10, 2000, on behalf of Ms. Jean Bridges, Mayor of Glennville, concerning the wetland impacts of Glennville's proposed expansion of their wastewater treatment facility. In November 1999, the U.S. Army Corps of Engineers Savannah District (COE) issued a pre-construction notification for use of Nationwide Permit 27 (NWP 27) for the City of Glennville to fill and convert 26 acres of wetlands to a series of polishing ponds, components of the proposed advanced wastewater treatment facility.

The U.S. Environmental Protection Agency (EPA) Region 4, normally does not receive or review pre-construction notifications (PCNs) for NWP 27. However, the Georgia Environmental Protection Division (EPD) does review proposed NWP 27 PCNs and EPD personnel recognized that the proposed authorization of the Glennville project under NWP 27 may be a misapplication of this nationwide permit. NWP 27 is for wetland and riparian restoration or creation activities. NWP 27 specifically states that it "does not authorize the conversion of natural wetlands to another aquatic use." The Glennville project proposes to convert natural wetlands to a wastewater treatment facility and remove them as jurisdictional waters. In late November 1999, EPD requested EPA's opinion on the proposed COE action. On December 3, 1999, EPA requested the COE provide information about the project. At that time we also commented to the COE that, based on the information that EPD forwarded, we viewed the Glennville project as ineligible for authorization under NWP 27. On December 6, 1999, the COE responded that they would issue a joint public notice for the project.

By January 20, 2000, no joint public notice had been issued for the Glennville project. However, we did receive notice that EPD had changed its position. Thus, we reconfirmed our concerns about the project to the COE. In a letter dated January 21, 2000, the COE denied authorization of the project under NWP 27.

On March 2, 2000, EPA participated in a multi-agency meeting with representatives of the City of Glennville to discuss the permit for project. The COE letter of January 21, 2000, indicated that they would require the project to have an individual Clean Water Act Section 404 permit. The Section 404(b)(1) Guidelines outline the steps for review of such a permit and this was the main topic of the meeting. For the individual permit, the City of Glennville will need to demonstrate that the proposed project is the least damaging practicable alternative.

At the meeting it was noted that EPD has already approved a direct discharge to the Altamaha River which would not necessitate construction of the polishing ponds in wetlands. Once the best alternative is selected, under the Guidelines it is incumbent on the applicant to minimize wetland impacts on the selected project site. At the March 2 meeting the site plan showed there to be uplands adjacent to the facility that could be used for construction of the polishing ponds. Once wetlands are avoided and minimized to the maximum extent, then there needs to be compensatory mitigation for the remaining wetland impacts. At the meeting EPA discussed utilizing the remaining wetlands on the site for a portion of the mitigation. However, it appears that preservation of these wetlands is not enough to offset the loss of the twenty-six acres of wetlands. We did not consider the polishing ponds themselves as mitigation since they will no longer be jurisdictional waters. Also, from a functional standpoint, EPA's position is that the twenty-six acres of wetlands would be converted to a facility that would be designed and managed as a waste water treatment system. This system would not function as a natural wetland.

EPA recognizes the City of Glennville's need to expeditiously comply with EPD's order to upgrade their wastewater discharge and we fully support EPD's action. However, it is our understanding that EPD has approved at least two discharge options, one to the Altamaha River that would not require the polishing ponds and one to the tributary of Beards Creek, which does require the ponds. Since both discharge limits are based on waste load allocations, we assume the two options are as equally protective of water quality. Thus, we must consider which option minimizes impacts to wetlands. While improvement of the City of Glennville wastewater discharge to improve water quality is an important goal, it appears there are options to achieve it without conversion of wetlands to a treatment facility.

We are continuing to work with the COE and the City of Glennville during the permit process for an outcome that will achieve the City's goal of wastewater discharge improvement and which will also avoid and/or minimize impacts to wetlands. If I may be of further assistance, please feel free to contact me or the Office of External Affairs at (404) 562-8327.

Sincerely,



John H. Hankinson, Jr.  
Regional Administrator

cc: COE - Savannah  
Georgia EPD

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1034 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX



**Congress of the United States**  
**House of Representatives**

February 8, 2000

**Committee On Appropriations**

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

Mr. John Reeder  
Dep. Assoc. Admin. of Cong. Aff.  
Environmental Protection Agency  
8<sup>th</sup> Floor, West Tower  
401 M Street, SW  
Washington, DC 20460

Dear Mr. Reeder:

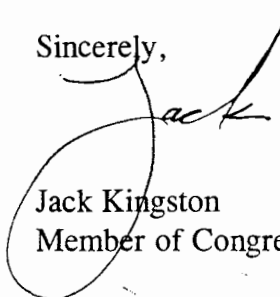
One of my constituents, Ms. <sup>Apple</sup> has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by my constituent, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Bruce Bazemore. He can be reached at (912) 352-0101.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

  
Jack Kingston  
Member of Congress

Reply to: Bruce Bazemore  
Congressman Jack Kingston  
6605 Abercorn St., Suite 102  
Savannah, GA 31405



JAN 31 REGD

January 28, 2000

Congressman Jack Kingston  
6605 Abercorn Street, Suite 102  
Savannah, Georgia 31405

Dear Sir:

As a private land owner, I am very concerned over the intent of the EPA to change forestry from a non-point to point pollutant. Never would it have occurred to me to consider forestry an environmental hazard. Forests are our major source of cleaning pollutants produced by other sources. I would hope that the government would focus my money and their energy on major environmental hazards such as the Savannah River Plant and other industries which daily pose health concerns.

Our Georgia Forestry Commission appears much better equipped to pass judgement on current forestry practices. Please help us avoid more regulations imposed by agencies that do not always understand the industry that they are policing.

Sincerely,

*EXP*

Midway, Georgia 31320



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 2 2000

OFFICE OF  
WATER

Honorable Jack Kingston  
US House of Representatives  
Washington, DC 20515

Dear Congressman Kingston:

Thank you for your February 8, 2000, letter requesting that we consider the views and concerns of your constituent Ms. *Exp. U* regarding the August 23, 1999, proposed regulatory revisions to the National Pollutant Discharge Elimination System (NPDES) and Water Quality Standards (WQS) programs and associated proposed regulatory revisions to the Total Maximum Daily Load (TMDL) program. The Environmental Protection Agency (EPA) has received many letters on these proposals. EPA is making every effort to respond to all of these letters and we will fully consider all comments on the proposals as we work to develop final rules.

The proposed regulatory revisions will strengthen existing authority under the Clean Water Act (CWA) to clean up our Nation's polluted waters in a common-sense and cost-effective manner. Regular listing of impaired and threatened waters and establishment of TMDLs are fundamental tools for identifying remaining sources of water pollution and achieving clean water. States have reported that some 20,000 waters around the country do not meet water quality goals. Clean-up plans developed under this proposal will help to restore the health of thousands of river and shoreline miles and make millions of lake acres safe for swimming and fishing.

With respect to the forestry provisions of these proposals, I would like to take this opportunity to explain further what the Agency has proposed and the Agency's reasoning behind the proposal. In doing so, I would like to emphasize two points. First, this is not the first time the Agency would be regulating discharges associated with silvicultural operations. The Environmental Protection Agency's (EPA) regulations currently require NPDES permits for discharges associated with log sorting, log storage, gravel washing and rock crushing. (See silviculture regulations at 40 CFR § 122.27). Second, this proposal would not automatically and categorically subject all silvicultural operations to NPDES permit requirements.

Under the proposal, the Agency would remove the exemption from NPDES requirements for certain storm water discharges associated with silvicultural operations. Again, this proposal would not automatically and categorically subject all silvicultural operations to NPDES permit requirements. This proposal merely provides the authority to designate, using existing storm water designation authority on a case-by-case basis, certain storm water discharges associated with silvicultural operations as subject to the NPDES program. EPA's proposed designation authority would be both discretionary (not mandatory) and limited to very narrow circumstances. The Agency expects to use this authority, if at all, in very rare instances and only as a last resort.

The following circumstances would need to exist *if* EPA chose to invoke this authority. First, the particular source is located on (discharging into) an impaired waterbody. Second, the particular source is discharging the pollutant causing the impairment of that waterbody (e.g., the waterbody is impaired for sediment and the source is discharging sediment to that waterbody). Third, the discharge of the pollutant causing the impairment is from a "point source" (a discrete confined conveyance). Where there is no discharge from a "point source" (e.g., sheet runoff), a pollution source is a nonpoint source and does not and will not be required to obtain an NPDES permit under any circumstance. Fourth, EPA determined that the particular source was a "significant contributor" of pollutants to that waterbody. Fifth, EPA is developing a TMDL for that waterbody and finally, there are no other means available to assure that best management practices (BMPs) will be implemented, enabling the particular source to meet its allocated load reductions established under the TMDL.

The Agency expects to only designate a particular source in States where existing authorities (e.g. State forest management programs) would not provide adequate assurance that sources subject to that authority would meet their allocated load reductions under an established TMDL. The Agency intends to work with States to identify ways in which those authorities could provide the assurance necessary. In States with well-established forestry programs, it is not likely that sources implementing the requirements under those programs would be designated. Likewise, in States where existing authorities would not provide adequate assurance that a source would meet its allocated load reductions but where that particular source has controls in place to provide the adequate assurance, that source would likely not be designated.

Data to support the removal of this exemption include recent 303(d) lists of impaired waters submitted by States which indicate that several watersheds are impaired due to forest management operations. For example, 32 States and Territories, in the 1998 section 303(d) listing cycle, identified the categories of sources of impairments and identified 362 waters as impaired by silviculture or forestry related activities. There were 1,017 associated impairments identified for these listed segments because often the waters were impaired by multiple pollutants. Maps of the 303(d) listed waters are available for each watershed on EPA's TMDL Web site at <http://www.epa.gov/OWOW/tmdl/>. We believe these numbers undercount the actual

number of waters impaired by silviculture and forestry because of the waters listed, States have only characterized the impairment for 48 percent of those waters. Also, for the States and Territories that identified sources but did not identify silviculture, some of these may have grouped silviculture into an overall agriculture or nonpoint source grouping.

The Agency has clear authority to remove this exemption. The current exemption from NPDES permit requirements for certain storm water discharges associated with a silvicultural operation is regulatory, not statutory. In other words, there is nothing in the CWA that explicitly excludes storm water discharges associated with silvicultural operations from NPDES requirements. The 1987 Amendments to the Act created a new storm water program and exempted from the CWA permit requirements, all "discharges" (i.e. a discernable, confined discrete conveyance) of storm water except specified discharges (e.g. industrial storm water). These amendments also provided discretionary authority to designate specific storm water discharges as needing a permit if they contribute to a violation of a water quality standard or are "significant contributors" of pollution to waters of the United States. (See CWA Section 402(p)(2)(E) and implementing regulations at 40 CFR § 122.26(a)(v)). Under the proposal, it is this discretionary designation authority which would be invoked if and when EPA chose to designate a silvicultural operation as requiring an NPDES permit.

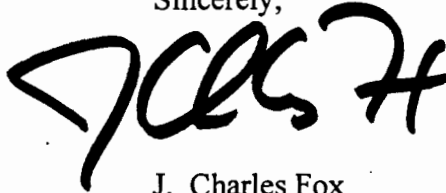
Prior to the 1987 Amendments, the Agency chose to subject some discharges associated with silvicultural activities to NPDES permit requirements; namely, those associated with log sorting and storage facilities and gravel washing and rock crushing activities. (40 CFR § 122.27). Facilities conducting these activities are currently required to obtain NPDES permits. Log sorting and log storage facilities, in particular, have been and currently do seek coverage under the Multi-Sector General Permit (MSGP) in States where EPA is the permitting authority. Also prior to the 1987 Amendments, the Agency defined certain discharges associated with silvicultural operations as "nonpoint" source discharges therefore, not requiring NPDES permits. These regulations, drafted prior to the 1987 storm water amendments, properly prevent the general application of the permit requirements to countless discharges of storm water from silvicultural operations, the vast majority of which are not "significant contributors" of pollutants to waters of the United States.

In the recently proposed TMDL rules, EPA is updating regulatory references to silviculture to recognize the 1987 storm water amendments. The proposed rule would drop the regulatory permit exemption for specific silvicultural sources in the limited circumstances described above. Again, EPA's authority is both limited and discretionary and, if invoked, it would be on a case-by-case basis; the removal of this exemption would not automatically and categorically subject all silvicultural operations to NPDES permit requirements. These sources would not be subject to NPDES permit requirements unless and until they are designated.

Enclosed for your information is a recent letter from me to Mr. Henson Moore, President of the American Forest and Paper Association concerning the forestry provisions of EPA's proposals.

I recognize that the level of Congressional and Public interest in these proposed rules is very high. EPA has received many comments on the proposed rules, and we are carefully considering all comments at this time. For additional information, please see our TMDL web site at <http://www.epa.gov/OWOW/tmdl/proprule.html>. If you have any questions, please contact me or Michael B. Cook, Director, Office of Wastewater Management at (202)260-5850, or Robert H. Wayland, Director, Office of Wetlands, Oceans, and Watersheds at (202)260-7166. In addition you may wish to contact the TMDL Comment Hotline at (202) 401-4078.

Sincerely,

A handwritten signature in black ink, appearing to read "JCFH", is written over the typed name.

J. Charles Fox  
Assistant Administrator

Enclosure

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX



# Congress of the United States

## House of Representatives

January 25, 2000

### Committee On Appropriations

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

Mr. John Reeder  
Deputy Assoc. Admin. of Congressional Affairs  
Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington, DC 20460

Dear Mr. Reeder:

One of my constituents, Mr. *Exple*, has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by my constituent, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Bruce Bazemore. He can be reached at (912) 352-0101.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

Reply to: Bruce Bazemore  
Congressman Jack Kingston  
6605 Abercorn St., Suite 102  
Savannah, GA 31405

4xpl-ll  
Savannan, Georgia 31411

Rep. Jack Kingston  
Suite 102  
6605 Abercorn St.  
Savannah, GA 31405

January 11, 2000

Dear Congressman Kingston,

Last week while driving southwest of Savannah, I passed a stretch of woods west of 1-95 between Hinesville and Richmond Hills. Coming out of that area was a plume of thick orange smoke which rose over the trees and extended and widened for the thirty miles back into Savannah. It spread out but was clearly visible covering half of the city on its way out to sea. It was filthy and had a disgusting foul acrid smell.

Today I woke up and the Landings smelled terrible. I found my wife in the kitchen and she asked me what was that terrible stink... perhaps we had a dead marsh rat in the walls. I told her no it was coming from outside. Congressman, I bet it was coming from the same site!

I called your office and was told that the smoke was probably coming from a paper plant in that area. (I wanted to get a number for the Environmental Protection Agency.) What I want to know is:

- is that site in violation of the Clean Air laws?
- is anyone doing anything about their output of crud over Savannah?

I would appreciate it if you could find out for me. Thank you very much.

Sincerely,

Exple



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

FEB 28 2000

The Honorable Jack Kingston  
Member, United States  
House of Representatives  
6605 Abercorn Street, Suite 102  
Savannah, Georgia 31405

Dear Congressman Kingston:

Thank you for your letter of January 25, 2000, on behalf of Mr. <sup>EXPL</sup> of Savannah, Georgia regarding a thick orange plume of smoke spreading over an area of Savannah.

The United States Environmental Protection Agency (EPA) shares joint responsibility with Georgia Department of Natural Resources, Environmental Protection Division (EPD) to ensure that all sources are in compliance with established air emission regulations. The enforcement of these regulations is designed to protect human health and the environment. EPA has fully delegated this program to EPD as the primary enforcement agency for these regulations. EPA maintains oversight authority.

After review of Mr. <sup>EXPL</sup> letter, GA DNR was contacted to obtain additional information regarding this matter. According to Georgia's satellite office in Savannah, the smoke resulted from controlled burning at Ft. Stewart. Depending on the angle observed from the sun, the smoke could have appeared orange.

In the future, if Mr. <sup>EXPL</sup> experiences air pollution problems, he should contact Mr. Al Frazier with the Savannah EPD Office at (912) 353-3225. The EPD office can immediately investigate the complaint.

EPA appreciates your concern for a clean environment. If I may be of further assistance, please do not hesitate to contact me or the Office of External Affairs at (404) 562-8327.

Sincerely,

John H. Hankinson, Jr.  
Regional Administrator

cc: Mr. Al Frazier  
EPD



**Congress of the United States**  
**Washington, DC 20515**

AL-0301587

December 12, 2003

Administrator Mike Leavitt  
Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, D.C. 20460

Dear Administrator Leavitt:

Our beekeepers are continuing to struggle against the pest, Varroa mites. As you know, honey bees are vital for not only honey production, but also are critical for pollinating many important agriculture crops in Georgia and throughout the United States. Georgia beekeepers are now in an emergency and need your help.

Varroa mites have become resistant to two of the products already permitted, fluvalinate and coumaphos, and the licensee of formic acid gel has yet to conquer packaging problems and bring this product to market. An alternative product with a useful application method is badly needed.

Studies have demonstrated that ApiLife VAR will effectively control Varroa mites and is licensed in Georgia. The active ingredient is thymol, a natural product that can be used without the dangers associated with harsh chemicals. Thymol is used in food products as an additive or flavoring. ApiLife VAR has been granted emergency exceptions for beekeepers in a number of states. However, the 150-day pre-harvest interval currently required for these emergencies is impractical in states like Georgia. Due to Georgia's mild climate and extended honey flow periods, beekeepers are limited to a very narrow window of opportunity to treat hives with such a pre-harvest label requirement. We would, therefore, request your consideration for a 30-day pre-harvest interval for ApiLife VAR in Georgia.

When you consider that thymol is allowed in chewing gum, candy and ice cream as a synthetic flavoring substance, the exposure to humans from treated beehives would be insignificant. Both the American Beekeeping Federation and the Georgia Department of Agriculture have been in contact with your office and have demonstrated that the use of this product would not create adverse effects to humans or the environment when the directions for use on the label of the product are followed.

Again, our beekeepers are facing a crisis. We need your help or many other agriculture producers will suffer because of the loss of bees. Thank you for your urgent consideration of this request.

Sincerely,

Jack Kingston Zell Miller Saxby Chambliss  
Jack Kingston Zell Miller Saxby Chambliss

Max Burns John Isakson Jim Marshall  
Max Burns John Isakson Jim Marshall

John Linder Mac Collins Phil Gingrey  
John Linder Mac Collins Phil Gingrey

David Scott Charlie Norwood  
David Scott Charlie Norwood



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 20 2004

THE ADMINISTRATOR

The Honorable Jack Kingston  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Kingston:

Thank you for your letter of December 12, 2003, in which you request that the Environmental Protection Agency (EPA) consider reducing the pre-harvest interval (PHI) for Api Life VAR from 150 to 30 days in Georgia, in an effort to control Varroa mites. I appreciate your argument that the current registered use interval fails to take into account Georgia's mild climate and extended honey flow period, and I have good news for you on that front.

On November 6, 2003, EPA granted an emergency exemption under Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to the Florida Department of Agriculture, reducing the PHI for thymol to control Varroa mites in beehives from 150 to 30 days. Given the similarity of the growing season in Florida and Georgia, I believe it is highly likely that the Agency can grant a comparable request from the Georgia Department of Agriculture, should it make one. Additionally, having determined that a 30-day PHI is permissible for thymol in beehives, EPA has been working with producers of thymol-based pesticides in order to reach a registration decision for those products under Section 3 of FIFRA. In the absence of any unforeseen difficulties, I anticipate EPA making a registration decision on the Section 3 application by the end of 2004.

As you know, creating and implementing balanced national environmental policies is an enormous challenge, particularly given the dramatic range of environmental conditions that can be found across the United States. I believe that EPA's approach with these thymol-based products demonstrates my commitment to allowing flexibility in the way that regions achieve compliance with national pesticide standards.

Again, thank you for your letter. If you have any questions or comments, please let me know, or have your staff contact Patricia Carr of our Office of Congressional and Intergovernmental Relations at 202-564-3109.

Sincerely,

A handwritten signature in black ink, reading "Michael O. Leavitt", is positioned below the word "Sincerely,".

Michael O. Leavitt

AC-030/276

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

October 6, 2003

Ms. Marianne L. Horinko  
Acting Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Ave, NW Room 300  
Washington, D.C. 20460

Dear Ms. Horinko:

We are writing to request your assistance in expediting the amended registration application of Clortram<sup>TM</sup> F-40 (EPA Reg. No. 72304-1) submitted by Sostram Corporation for mold control in buildings. According to correspondence from your agency's Antimicrobials Division of the Office of Pesticide Programs dated July 31, 2003, EPA is proposing a 270-day review period for this amendment, which we find to be unacceptable.

Growth of mold fungi in human habitations and workplaces is an increasing problem in our districts and across the nation. Mold fungi can create significant damage and the problem appears to be exacerbated by the modern construction of "tighter" buildings and increased use of air conditioning. Mold-related lawsuits are on the rise, and problems faced by insurance carriers covering pest control operators (PCO's) have dramatically increased, with potentially devastating impacts on the pest control and homebuilding industries. Insurance companies are increasingly reluctant to provide coverage against mold claims in homeowner's insurance policies.

Sostram Corporation has developed and tested Clortram F-40, and found it to be capable of preventing and remediating the growth of mold fungi on wood and wallboard in homes and other buildings. Chlorothalonil, the active ingredient in Clortram F-40, is used as an agricultural and industrial fungicide, and is widely employed to control the growth of molds in both interior and exterior architectural coatings. Efficacy trials conducted at the USDA Forest Products Laboratory in Madison, WI over the past year confirm the exceptional activity of chlorothalonil against home-inhabiting mold organisms.

Clortram F-40 is already approved by the Environmental Protection Agency (EPA) for use in paints and coatings, adhesives, caulks, sealants, freshly sawn wood, and composite wood products. Most of these products find their way into and around homes and workplace buildings. However, the application of chlorothalonil to new building construction for prevention of mold growth, or as a remedial treatment for buildings previously infested by molds, requires prior approval by the EPA in the form of a "label amendment." In meetings between Sostram Corporation and the Environmental Protection Agency (EPA) in 2002 and 2003, the Agency has

expressed its unwillingness to allow the preventive use of chlorothalonil for mold control in homes, even if the application is conducted by professional pest control operators. As Sostram Corporation has pointed out during both of their meetings with the Agency, risks of exposure to applicators and handlers of many types of products containing chlorothalonil, and to inhabitants of buildings treated with architectural coatings that contain chlorothalonil, were already extensively reviewed by the Agency and found to be acceptable in EPA's own Chlorothalonil Reregistration Eligibility Decision document, issued April 1999.

Sostram Corporation has taken a reasoned approach in dealing with the Agency. It has conducted extensive efficacy trials far exceeding the Agency's request, demonstrating suitability of Clortram F-40 for inhibiting mold fungi on wood and wallboard. Sostram has modified the wording of its proposed label amendment to be more in concert with the Agency's policies that foster integrated pest management principles, and to minimize exposure to humans within treated buildings. In spite of Sostram's efforts, the Agency appears not to understand the urgency of approving the usage of Clortram F-40 for mold prevention and remediation in buildings. The simple act of clearing the amendment package through the mail facility at the EPA offices in Arlington, Virginia took more than five weeks, between its receipt on July 28 and its dissemination for review on September 3, 2003. Subsequently it appears that the Agency did not inform Sostram that its label amendment and accompanying data package had been cleared for review for an additional three weeks thereafter. All of this adds up to an expensive and very lengthy delay in the deployment of an effective mold remediation product for the people of my district. We hope that the Agency's review and approval of the Sostram label amendment for Clortram F-40 will not take the indicated 270 days, but will be completed before the forthcoming winter "mold season" sets in.

We respectfully request that you do all that you can to expedite this request and approve the label amendment for the use of Clortram F-40 (EPA Reg. No. 72304-1) for mold control in buildings.

Sincerely,



Jack Kingston  
Member of Congress



Sanford Bishop  
Member of Congress

Cc: Stephen L. Johnson (Assistant Administrator, OPPTS)  
James Jones (Director, OPP/OPPTS)  
Frank Sanders (Director, Antimicrobials Division/OPP)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

NOV - 4 2003

THE ADMINISTRATOR

The Honorable Sanford Bishop  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Bishop:

Thank you for your letter of October 6, 2003, in which you urge the Environmental Protection Agency (EPA) to expedite the amended registration application of Clortram F-40. I share your desire for EPA to have an efficient and productive review process.

As stated in your letter, you and your constituent are concerned about the 270-day review period. We understand the urgency involved with registering this pesticide for its new use. In an effort to expedite this application, the Antimicrobial Division (AD) staff is conducting a brief review of the data submitted by Sorstram to look for any major issues or concerns associated with it. On November 5, 2003, AD management will meet to discuss any major issues and notify your client of matters that may need clarification or if more data are needed. After the November 5 meeting, your constituent will have a greater understanding of the direction of the review and a more finite idea of when the process will be complete.

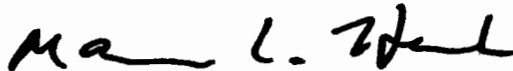
Our goal with respect to registration is to complete the process in a timely manner, while satisfying the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This entails ensuring that the use of a product consistent with its label does not cause unreasonable adverse effects to human health or the environment and, when public health claims are made, to ensure the efficacy of the product for that use. Because chlorothalonil has never been registered for use on building materials used to control mold in homes, we are required under FIFRA to conduct a new risk assessment to ensure that it meets the FIFRA safety standard. The fact that one use of an active ingredient is safe does not ensure the safety of other uses, as exposure and therefore risk vary widely among uses. In addition, the public health claims your constituent has proposed have not been previously accepted. EPA will review the efficacy data provided in the application. However, efficacy testing procedures have not been developed and approved for some of the claims proposed for this product. If there are issues concerning the submitted data it may be necessary to have such procedures developed and approved.

For your information, a lawsuit has been filed against EPA recently challenging the Agency's assessment of the aggregate risks of various pesticides, including chlorothalonil, which includes potential risks to infants and children in the home (see *New York v. Horinko*). If in the future it appears that this lawsuit may affect registration decisions regarding chlorothalonil, we will notify your constituent.

I realize that the registration amendment review process can be time-consuming and frustrating for companies, especially small companies eager to get their products into the marketplace. However, EPA's foremost responsibility in scientifically reviewing these applications is to ensure that products making public health claims are both efficacious and that they do not present unreasonable risks to human health or the environment.

Again, thank you for your letter. I hope this information is helpful. If you have further questions, please feel free to contact me or your staff may contact Patricia Carr of our Office of Congressional and Intergovernmental Relations at 202-564-3109.

Sincerely yours,

A handwritten signature in black ink, appearing to read "M L Horinko". The signature is fluid and cursive, with the first name "Marianne" and last name "Horinko" clearly distinguishable.

Marianne L. Horinko  
Acting Administrator

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
2242 Rayburn House Office Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX

AL-D300750



Committee On Appropriations  
Vice Chair, Republican Conference

SAVANNAH OFFICE  
One Diamond Causeway  
Suite 7  
Savannah, GA 31406  
(912) 352-0101  
(912) 352-0105 FAX

BAXLEY OFFICE  
P.O. Box 40  
Baxley, GA 31515  
(912) 367-7403  
(912) 367-7404 FAX

WARNER ROBINS OFFICE  
P.O. Box 9348  
Warner Robins, GA 31095

## Congress of the United States

### House of Representatives

June 3, 2003

Mr. Stephen L. Johnson  
Assistant Administrator  
Office of Prevention, Pesticides and Toxic Substances  
US. Environmental Protection Agency (7101M)  
Ariel Rios Building  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460

Dear Mr. Johnson:

I am writing on behalf of a constituent, the Pinova Division of Hercules Incorporated, to ask that you investigate the Agency's review of the above-referenced pesticide tolerance exemption petition and tell me when you foresee that the Petition will be granted.

The Pinova Division of Hercules is located in Brunswick, Georgia. This business has been a valuable part of the Brunswick community since the 1920s. Pinova currently employs approximately 340 residents of the Brunswick area and is active in community affairs. EPA's granting of Petition No. 6E4782 will represent an important opportunity for Pinova to grow its business.

Hercules Incorporated originally filed the Petition with EPA in 1996. In 1998, the Petition was supplemented with additional information required by the Food Quality Protection Act. EPA's receipt of the Petition was acknowledged in the Federal Register of November 20, 1998 (63 Fed. Reg. 64494).

The Petition seeks to bring about a minor revision to an existing tolerance exemption, codified at 40 C.F.R. § 180.1001(c). Specifically, the Petition asks EPA to broaden the existing listing for "β-Pinene polymers" so that it encompasses polymers derived from both α-pinene and β-pinene. The revised entry in section 180.1001(c) would read "Pinene polymers" rather than "β-Pinene polymers." EPA's granting of the petition will allow for the use of polymers derived from both α-pinene and β-pinene as inert ingredients in pesticides applied to growing crops.

The Petition includes a substantial amount of safety information to support this requested action. The α- and β-pinene monomers both occur naturally in a variety of foods and are cleared by the Food and Drug Administration (FDA) for use as flavor additives at 21 C.F.R. § 172.515. Additionally, synthetic terpene resin, defined as polymers of α-pinene, β-pinene and/or dipentene is cleared by FDA for use in chewing gum base at 21 C.F.R. § 172.615.



EPA has evaluated the safety of the pinene polymers and monomers in the recent past. Specifically, EPA has placed the  $\alpha$ -pinene monomer and the  $\beta$ -pinene polymer on list 4B, "inert ingredients for which EPA has sufficient information to conclude that their current use patterns in pesticide products will not adversely affect public health and the environment." 60 Fed. Reg. 35396 (July 7, 1995).

The Petition does not rely solely on this type of information, however. The Petition also includes the results of toxicological studies in laboratory animals that support the safety of pinene polymers including those rich in  $\alpha$ -pinene.

Given the longstanding use of pinene polymers in chewing gum base, the status of the two monomers as flavor additives cleared by FDA for direct addition to food, the natural occurrence of the monomers in a variety of foods, and EPA's own pronouncements on their safety, it is difficult to understand why EPA has not acted favorably on this Petition during the almost seven years that has elapsed since its submission.


Through its attorneys, Hercules has been in contact with EPA over the past seven years regarding the status of the Petition. The Agency has at various times requested minor clarifications regarding the information included in the Petition. In 2001, an EPA reviewer, Dr. Waheeda Tehseen, informed an attorney for Hercules over the telephone that EPA's Health Effects Division had completed its review of the Petition and was recommending that the Petition be granted. As far as Hercules can tell, no action has been taken within the Agency since that time toward the promulgation of a final rule granting the Petition.

I understand the Agency's resources may be stretched at times, but that alone would not seem to explain why this Petition has not yet been acted upon. This is particularly true considering (1) the age of the Petition; (2) the fact that EPA's scientists have already completed their review the Petition and have recommended that it be granted; (3) that EPA has not requested additional information from Hercules; and (4) that other tolerance exemption petitions submitted after 1996 have been granted.

Considering all of the foregoing, I hope you will agree that this Petition deserves a higher level of attention than it has received to date. I would appreciate your assistance in ascertaining with some specificity when Hercules can expect a final rule to be issued granting this Petition. Personally, I would like to see a final rule granting the Petition issued before the end of this summer. If the Agency requires any follow-up information from Hercules before a final rule can be promulgated, I would like to know why the Agency has not to date communicated a request for such information to Hercules.

I appreciate your time and effort in resolving this matter and look forward to a reply. Please do not hesitate to contact Heather McNatt on my staff if my office can be of any assistance to you.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Kingston". The signature is fluid and cursive, with the first name "Jack" and last name "Kingston" clearly distinguishable.

Jack Kingston  
Member of Congress

JK:hbm



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUN 27 2003

OFFICE OF  
PREVENTION, PESTICIDES AND  
TOXIC SUBSTANCES

Honorable Jack Kingston  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Kingston:

Thank you for your letter of June 3, 2003, on behalf of your constituent, the Pinova Division of Hercules Incorporated, regarding the Environmental Protection Agency's review of a petition requesting a pesticide tolerance exemption. The petition seeks to bring about a revision to an existing tolerance exemption for pine polymers.

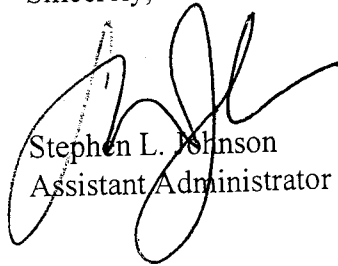
As you note in your letter, the petition was filed with us in 1996. The petition came in when the Agency was beginning to implement the new requirements of the Food Quality Protection Act (FQPA). Specifically, developing the FQPA provisions for inert ingredients was a particularly difficult challenge since the data requirements for inert ingredients and a systematic risk methodology for had not been developed prior to passage of the FQPA. Consequently, in order to meet our new legal requirements the Agency needed to ensure it developed a sound process that met the new mandates for inert ingredients.

In that regard, recently the Agency has completed a new methodology for assessing these inert ingredients. This new methodology employs a screening concept that encourages the use of readily available scientifically information instead of requiring new data. It is a way of combining assessments, thus leading to efficiencies of operation and the ability to use more of the existing data. This methodology has been published for public comment. The Agency expects to finalize this methodology by the end of this year. This new methodology will greatly increase efficiencies and provide a path forward in completing risk assessments with limited data, which includes the pending application from Hercules Inc.

Given this new methodology and that your constituent's application is currently under review, the Agency staff who are processing the application would like to meet with representatives from Hercules Inc. to update them on the status and discuss a path forward. I encourage your constituent to contact Susan Lewis of my staff (at 703-308-8009) to schedule a meeting.

If you have further questions, please let me know, or have your staff contact Betsy Henry of the Office of Congressional and Intergovernmental Relations at (202) 564-7222.

Sincerely,

A handwritten signature in black ink, appearing to be 'S. Johnson', written over the printed name.

Stephen L. Johnson  
Assistant Administrator

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1034 Longworth House Office Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX

AL-0300288



Committee On Appropriations

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn Street, Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

## Congress of the United States

### House of Representatives

February 27, 2003

Ms. Christine Todd Whitman  
Administrator, Environmental Protection Agency  
Ariel Rios Federal Building  
1200 Pennsylvania Avenue, Northwest  
Washington, D.C. 20004

Dear Administrator Whitman:

I understand and am concerned that the FY 2002 funding for the Consortium for Plant Biotechnology Research ("CPBR") has not yet been awarded. This fact is especially troubling since we are nearly half way through FY 2003 and the FY 2002 funds have still not been awarded.

Congress has supported and funded CPBR for ten years and the continuity of the funding provided is essential to the success of Consortium.

I respectfully request that you immediately award the \$500,000 in funds included in the Science and Technology account of the FY 2002 VA HUD and Independent Agencies Appropriations bill for CPBR. I also urge you to award CPBR the \$450,000 in funds that were included in the same account of the FY 2003 VA HUD and Independent Agencies Appropriations bill as soon as possible.

Sincerely,

Jack Kingston  
Member of Congress

JK:leq



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 4 2003

THE ADMINISTRATOR

The Honorable Jack Kingston  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Kingston:

Thank you for your February 27, 2003, letter on behalf of the Consortium for Plant Biotechnology Research (CPBR). You expressed concern about the award of funds to the CPBR that were designated in the Fiscal Year (FY) 2002 appropriation.

The U.S. Environmental Protection Agency's (EPA) extramural research program is managed by the National Center for Environmental Research. The Center conducts external peer review of all research that it funds, assuring that the projects funded are of high scientific quality. These reviews are conducted as expeditiously as possible, after the technical proposal is received.

The award of FY 2002 funds to the Consortium is currently in progress. The Consortium should receive notification of the award no later than April 15. Also, we plan on processing the FY 2003 award as soon as we receive an official request for federal assistance from the Consortium.

Again, thank you for expressing your support and interest in EPA-funded research. Should you have any further questions, please contact me or your staff may contact Diane Hicks in EPA's Office of Congressional and Intergovernmental Relations at 202-564-3652.

Sincerely yours,

A handwritten signature in black ink, which appears to read "Christine Todd Whitman", is written over a horizontal line.

Christine Todd Whitman

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202)225-5831

BRUNSWICK OFFICE  
Federal Building, Room 304  
Brunswick, GA 31520  
(912)265-9010

**Committee On Appropriations**



**Congress of the United States**  
**House of Representatives**

November 18, 1998

SAVANNAH OFFICE  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912)352-0101

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912)489-8797

WAYCROSS OFFICE  
208 Tebeau Street  
Waycross, GA 31501  
(912)287-1180

Director, Congressional Affairs  
Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington DC 20460

Sir/Madam

One of my constituents, Mr. Jim Koenig, has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by my constituent, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Brian Dart. He can be reached in my Statesboro office at (912)489-8797.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

Reply to: Brian Dart  
Congressman Jack Kingston  
220 Federal Bldg.  
Statesboro, GA 30458



Jim Koenig Jr.  
912 685-2242

# The Circle **k** Ranch

RR 2 Box 40 A-6, Metter Georgia 30439

gpainter@pineland.net

16 November, 1998

Dear Congressman Kingston,

Sir, my wife Nancy and I have been voting for you for years now because we trust you to do the right thing. You, your family's, and people of Georgia's health is at risk due to being over exposed to fluorides.

Enclosed is a 13 minute video tape with a lead from KGTV. Featured on the tape is Dr. William Hirzy, a top scientist at Headquarters, Environmental Protection Agency, Dr. Robert Carton, a former EPA employee now working for the government at Fort Detrick, and Dr. Phyllis Mullenix of Boston Childrens Hospital.

On the tape, these doctors will tell you that fluoridation is not safe, the EPA knows it, but is covering up the facts. Please watch the tape and make a couple of phone calls, these folks will be glad to speak with you.

Dr. Hirzy, EPA, 202 260-4683

Dr. Carton, Ft. Detrick, 301 619-2004

Dr. Mullenix, BCH, 617 355-6000

Sir, I know you are a busy man.....All I'm asking for, is 13 minutes of your time. Can someone on your staff look into this issue for us? This is not for me, It is for you, our families, and the people you serve. Keep up the great work in Congress.

Sincerely,

Jim Koenig

City of Metter Water Department





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

DEC 10 1998

OFFICE OF  
WATER

Honorable Jack Kingston  
220 Federal Building  
Statesboro, GA 30458

Dear Congressman Kingston:

Thank you for your letter of November 18, 1998, forwarding a letter from your constituent, Jim Koenig, along with a tape about fluoride and fluoridation to the Environmental Protection Agency (EPA).

Fluoride in drinking water is regulated by EPA under Section 1412 of the Safe Drinking Water Act (SDWA). On April 2, 1986, EPA set a revised Maximum Contaminant Level (MCL) at 4 mg/L to protect against crippling skeletal fluorosis, an adverse health effect. In addition, EPA set a nonenforceable Secondary Maximum Contaminant Level (SMCL) of 2 mg/L to protect against objectionable dental fluorosis (tooth discoloration). However, the SDWA prohibits EPA from requiring the addition of any substance (including fluoride) to drinking water for preventative health care purposes. As a consequence, State or local authorities determine whether or not to fluoridate their water supply. Depending on local conditions, fluoridation in this country is practiced at a level of about 1 mg/L which is well below the current 4 mg/L SDWA Federal standard.

The Centers for Disease Control (CDC) is the principal Federal agency involved in research on fluoridation in this country. For information on fluoridation you may wish to contact:

Dr. Gene Sterritt  
Oral Health Program  
Program Services Branch  
NCCDHP/CDC  
Mail Stop F10  
Davidson Building  
2858 Woodcock Boulevard  
Chamblee, Georgia 30341

In 1993, the National Research Council (NRC) completed a review of fluoride toxicity and exposure data for EPA, and published their findings in the document "Health Effects of Ingested Fluoride". Among other points, the NRC review concluded that EPA's current 4 mg/L standard is appropriate to protect the public health. EPA continues to monitor research on fluoride and to evaluate the MCL and SMCL on the basis of new data. Thus, EPA appreciates the information provided in the video tape related to fluoride research.

EPA prepared a regulatory fact sheet on fluoride to provide information regarding fluoride and fluoridation for concerned citizens. A copy of that fact sheet is enclosed for your use.

Thank you for sharing your thoughts and concerns. If you, or your staff have any additional question, please feel free to contact me or call Dr. Joyce Donohue, at (202) 260-1318.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Charles Fox". The signature is stylized with a large, looped "J" and a cursive "Fox".

J. Charles Fox  
Assistant Administrator

Enclosure

DONOHUE:SRH:12/03/98/DOC:NAME AL980391:260-1318:AL&AX98DISK

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX



**Congress of the United States**  
**House of Representatives**

November 6, 1998

Committee On Appropriations

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

Director, Congressional Affairs  
Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington DC 20460

Sir/Madam

One of my constituents, <sup>sup u</sup> \_\_\_\_\_, has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by my constituent, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Kellie Davis. She can be reached at (912) 265-9010.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

Reply to: Kellie Davis  
Congressman Jack Kingston  
805 Gloucester St., Rm. 304  
Brunswick, GA 31520

OCT 26 REC'D

From: *Exp. 4*  
To: Jack Kingston (Congressman)  
Date: 10/09/98  
Subj: Pollution in the area

I'm a service member of the United States Marine Corps. I joined the Marines in December 13, 1986, I later married a young lady from St. Marys Georgia by the name of V. On February 27, 1995, we were deeded a home by her father through the Camden county court, located at the 29th G.M. District of Camden county Georgia lot 12 block 86. My main concern is the pollution coming from Gilman Paper Company. We live about a half a mile from the paper mill and the area that we live in is polluted really bad. On July 7, 1998, I wrote a letter to Gilman Paper Company and Environmental Protection Agency in Kingsland Georgia telling them about the different concerns and problems that exist in the area, about three weeks later I finally got a phone call from Mr. Tom Stanford, the reason he called because the pollution had effected our Air conditioner Unit. I stated on the letter that we had to have or AC replace three times and we purchased it in 1995. He agreed to pay a percentage of the AC and my wife told him that we couldn't afford to pay a cent for the AC because we've put out too much money in the past for the same problems. He then turned the case over to Allen Harrison he then called about a week later, we did come to an agreement for Gilman to pay a 100 percent to install a new unit. They did install the Air conditioner, but they never answered any of the questions that I address to them. EPA out of Kingsland Ga. (Hamp Howell) stated that they was going to get in touch with EPA out of Atlanta Ga and have them to come down and do a inspection but they never got back in touch with me to let me know the outcome or if they even did a inspection. My concern was more than just getting a Air-condition installed, My family and I suffered during the hot summer months from July until October without any Air and I'm still not a satisfied resident because no one seems to really be concern what's going on in this community. What does it take to get answers on a issue as serious as this. I have served my country for 12 years and I'm very proud of that and as my Congress representative I think you can help look into this situation by sending the EPA out of Atlanta Ga to come out and inspect the pollution in the area. I have been station in a lot of different places and none as bad as this. I have been to Okinawa, Korea, Thailand, the Phillpines, Mediterrina, France, Turkey, Italy, Romania, Span, Africa, Israel and Norway and I come back home to experience these kind of problems, why home? I regret moving to this place because of the problems this place is causing us. My child has allergies and his doctor stated pollution makes the allergies worst. In 1997 my wife had a Pap Smear results came back negative she then found out she had cancerous cells, she had to have surgery and she now have to go back every three months to ensure that it hasn't come back. I never in my life experience anything like this. I also found out that a lot of people in the neighborhood died from some type of cancer including my wife mother. I don't know if this is causing the problem or not but until I get some answer, this is all I have to go by. I will be getting station in Camp Lagan NC in the year 2000 and I would hate to have to leave my family behind knowing all this is going own, we have committed ourselves to this area and it's hard for me to move them. I have taken out a loan on the home to repair it and I have invested a lot of time into this home. I don't know what I'm going to do if I have to leave them in this area. I will be so concerned of their health, I don't think I can put out a 100 percent anywhere without knowing

that my family is in the best of health, and that the pollution is not causing them any of the sickness that they have encountered. Until I have been assured that they will be fine living here, my mind will never be at rest from this situation. I will not give up trying to find out information until I get some answers from someone. I hope you understand my concerns and take this as a serious problem, please don't just sit this letter to the side and never response to me. I would be looking forward in hearing from you. Congress have always been there for service members and I know as a congressman of Georgia you will get to the bottom of this. I would like to thank you in advance for your service and I'm glad that I serve a congressman that cares, it makes a lot of difference. Attached are copies of the letter that was sent to Gilman Paper Company and EPA of Kingsland Ga. also a copy of when I had my unit installed. If you have any questions or comments, you can reach me at: *exple* or *exple*

Address:

United States Marine Corps

*exple*  
Weapons Training Bn  
Parris Island Sc 29902

*exple*  
St. Marys Ga. 31558

*exple* (wife wk)

Respectfully Submitting

*exple*

From: *Exp*  
To: Industrial Relations  
Subj: Various problems within the neighborhood  
Date: 07/20/98

I'm a very concerned and unsatisfied individual living at *Exp* I've been living in this neighborhood for three years along with my family. I have experience the most problems here then I have anywhere in my military career. This is the worst neighborhood I have every lived in. When I first moved into my home, I purchased a BRAND NEW unit for my house and it has been repaired four times within three years for leaks. I was told by Green's Air Conditioning & Heating that leaks were not covered in the warranty, that's more money out of my pocket. In my absence for six weeks, my wife called me and told me she had to have the unit fix, which was in June, for more leaks costing \$150.00. Now turn around in July the unit is out again, so many leaks it's unbelievable. The estimated cost for repairs and labor is \$600.00. This really concerns me! Why? Because not only have our unit gone out several times, I know of four other people living in the same neighborhood units have gone out also. What about the houses that Gilman Paper Company brought and then rent out to other people, is it true that new units was placed in those homes? Was this done to save you from problems that will occur in the future? Did anyone know about all these leakage problem? What about the vehicles? The pollution around here is so bad that I have rust on my car and when I wash my car, I can still see little white dots all in the paint. Gilman Paper Co. were giving out tickets to get our cars washed at St. Marys Car Wash. I don't know rather they are still doing this or not, but whenever I sent my wife to get a ticket to have the cars washed she was always turned down by Kenneth Taylor, because he didn't think it was a pollution problem. When the other man was in the office, he would give her a ticket for a basic wash, a basic wash for pollution that is falling everyday. I don't understand. I know a guy in the neighbor hood who comes out to Gilman and get free vinegar for his vehicle whenever he wants. Why are Gilman giving away free vinegar? Is it to protect your vehicle and get out the cheap way. The reason I know this is true, the guy ask my wife to bring him some vinegar back when she was going to get a ticket to have her car wash, which she was turned down again. Is anyone concern about health problems? How bad this pollution is affecting our health and our kids. Have anyone check to see how much damage this pollution is putting out and when the last time environmental been around to test the pollution. If no one every speaks up then no one will ever know. I refuse to let anything slip through the cracks. Do anyone know how many people died in this neighborhood from cancer or how many people are sick as of today? Probably not! What about at the Paper Mill how many people have health problem or under doctors care. How many people are retired and sick now. How many people have chemical burns or inhaled chemicals that they are not even sure exist or not aware of the danger it is causing to their bodies. So many questions and the real question is, Is there a pollution problem that exist in this area? How many people really knows. I'm really looking forward in hearing from you soon. Please respond to this letter as quickly as possible, I would

hate to have to take further action This is a serious issue and something needs to be done. I don't think it's easy just to pick up your Industrial Plant and have it move. Well, it's not easy for us as residence to just move either, but if I could, I definitely would move out of this area. If you need to contact me please feel free to call me at *Exp. 6* or *Exp. 6*

cy to:

Gilman Pamper Co.

Environmental

File

Respectfully Submitted

*Exp. 6*

Jack Green  
806 Dilworth St.  
P.O. Box BBB  
St. Marys, GA 31558

**GREEN'S AIR-CONDITIONING  
AND HEATING COMPANY**  
COMPLETE INSTALLATION AND REPAIR SERVICE

Telephone 912/882-5579

Serving Camden County  
For Over 80 Years

Invoice No 839

St. Marys, Ga 31558

Date 6-7-95

DESCRIPTION	AMOUNT
Install 3 1/2 ton Rheem Heat pump, includes all equipment, ducting, piping, tubing, registers, grill, thermostat, electrical wiring, breakers, Complete job.	\$3600.00
Mod. RBHA-21515 SFCA S/N. T-M1695-2187	
Mod RPKA-042 JAZ S/N 5347-M3494-8877	

For payment  
Pd  
Check



**GREEN'S AIR CONDITIONING**

45-C ChrIs Lane · Kingsland, GA 31548

17 Sep 1998 2:25PM Page

Office (912)882-3379 · Fax (912)882-0858

ST. MARYS, GA 31558  
673-6549

RE: QUOTE TO REPLACE CONDENSER & EVAPORATOR COIL

LABOR AND MATERIAL TO INSTALL NEW 3-1/2 TON RUUD HEAT PUMP CONDENSER AND  
EVAPORATOR COIL DIPPED BY BRONZ-GLOW TECHNOLOGIES OF JACKSONVILLE.

TECHNICAL SPECIFICATIONS ON COATING TO BE PROVIDED IF REQUIRED.

TOTAL \$2887.00



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

DEC 03 1998

Honorable Jack Kingston  
Member, United States  
House of Representatives  
805 Gloucester Street, Room 304  
Brunswick, Georgia 31520

Dear Congressman Kingston:

Thank you for your November 6, 1998, letter on behalf of your constituent, *Exp. Co.*, regarding his concerns about pollution from Gilman Paper Company.

The United States Environmental Protection Agency (EPA) shares a joint responsibility with the Georgia Department of Natural Resources (GA DNR) to ensure that all sources are in compliance with the established air emission limiting regulations. The enforcement of these regulations is designed to protect human health and the environment. Although EPA shares this responsibility, GA DNR has a fully delegated program and has the primary responsibility for enforcing these regulations.

In response to your inquiry, a member of my staff contacted GA DNR to determine the compliance status of Gilman Paper Company. The last inspection of this facility was conducted in September 1998 by GA DNR. According to GA DNR, Gilman Paper Company was in violation of minor reporting and operational requirements at the time of the inspection. The EPA has requested a copy of the September 1998 inspection report and will forward it to SSgt Reed once it has been received by our office.

Gilman Paper Company is regulated for the following pollutants under a GA DNR air quality permit: carbon monoxide, nitrogen dioxide, particulate matter, sulfur dioxide, and volatile organic compounds. These pollutants are regulated to minimize potential releases to the atmosphere, thus protecting human health and the environment. However, since this complaint follows the most recent inspection, we will forward SSgt Reed's letter to GA DNR, requesting that a follow-up inspection be conducted at this facility to investigate his concerns.

Gilman Paper Company is inspected twice a year by GA DNR to ensure that they are complying with all applicable air quality regulations. In the future, if *Experiences* air pollution from the plant he should immediately contact Georgia's Middle Regional Office, Ed Jarrett, Regional Manager, at (912) 751-6612 to discuss his concerns. This office could then conduct a complaint inspection at the facility and interview the complainant, if needed, to determine if emissions limitations have been exceeded.

EPA appreciates your concern for a clean environment. EPA will work closely with GA DNR to ensure that the facility is monitored for continuous compliance.

If I can be of further assistance, please do not hesitate to contact me or the Office of External Affairs at (404) 562-8327.

Sincerely,



John H. Hankinson, Jr.  
Regional Administrator

cc: Tony Cutrer, Manager  
Stationary Source Compliance  
Program  
4244 International Parkway  
Suite 120  
Atlanta, Georgia 30354

AL-9802450

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515

September 16, 1998

The Honorable Carol Browner  
Administrator, The Environmental Protection Agency  
401 M Street, S.W.  
Washington DC 20460

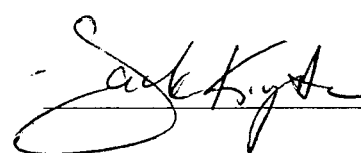
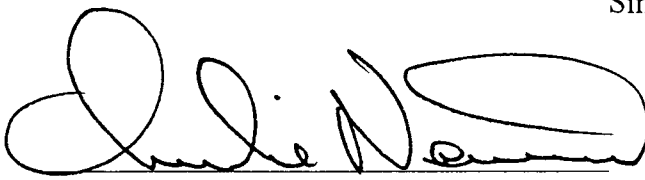
Dear Administrator Browner:

Professionals in the food and fiber industry of our state are this year facing a host of challenges ranging from a drought to severely depressed commodity prices. These challenges will have a detrimental effect on the health of our food and fiber industry. Additionally, we are concerned about the mid and long term effects of the current implementation process of the Food Quality Protection Act. We believe that a reasonable science-based implementation plan is absolutely essential.

We write today to inquire about the progress of the Tolerance Reassessment Committee. We understand that there are mixed reports about this committee's progress and we would appreciate a detailed and up-to-date explanation at your earliest convenience.

It is our intent as a delegation to monitor the implementation process very closely. Thank you for your attention to this matter. We look forward to your prompt response.

Sincerely,









UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT 29 1998

OFFICE OF  
PREVENTION, PESTICIDES AND  
TOXIC SUBSTANCES

The Honorable Jack Kingston  
U.S. House of Representatives  
Washington, DC, 20515

Dear Congressman Kingston:

Thank you for your September 16, 1998 letter regarding progress of the Tolerance Reassessment Advisory Committee (TRAC). I am pleased to inform you of some of the major outcomes from the first five meetings of the committee and the plans for two additional meetings in 1999.

The TRAC includes individuals from a wide range of stakeholder viewpoints, including pesticide registrants, growers, food processors, environmental groups, and medical professionals, among others. We heard their diverse views and learned from them, and, just as importantly, they heard each other. The group helped the Environmental Protection Agency and the U.S. Department of Agriculture make significant progress in areas critical to the successful implementation of the Food Quality Protection Act. These include:

- We have identified key science policy issues related to tolerance reassessment and defined an approach to resolving these issues that will include substantial public input;
- We are implementing a pilot approach to obtaining public comment on preliminary risk assessments as part of our effort to improve transparency of decisionmaking. So far, preliminary risk assessments of 16 organophosphates have been released for 60-day public comment periods. The remaining 24 organophosphates will be released as they are completed;
- There was increased focus on issues related to transition, such as possible approaches that would better prepare growers for possible changes in pesticide use patterns;
- The degree of communication and cooperation between USDA and EPA has increased substantially, including the establishment of a high-level working group; and

- Additional funding has been allocated within EPA to increase the pace of registration of new chemicals and to enhance development of more efficient, easier-to-use monitoring methods to lower detection limits for pesticide residues.

I appreciate your interest in the TRAC and hope this has helped clarify the benefits we believe have accrued from this process. We look forward to using the final two TRAC meetings, tentatively scheduled for February and April of 1999, to obtain input on some areas that were not fully discussed at the first five meetings, such as risk management and cumulative risk assessment. Please let me know if you have further questions.

Sincerely yours,

A handwritten signature in cursive script, reading "Lynn R. Goldman".

Lynn R. Goldman, M.D.  
Assistant Administrator

**JACK KINGSTON**  
1st District, Georgia

**WASHINGTON OFFICE**  
1507 Longworth Building  
Washington, DC 20515  
(202)225-5831  
(202) 226-2269 FAX

**BRUNSWICK OFFICE**  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912)265-9010  
(912) 265-9013 FAX



**Congress of the United States**  
**House of Representatives**

August 7, 1998

**Committee On Appropriations**

**SAVANNAH OFFICE**  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

**STATESBORO OFFICE**  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

Director, Congressional Affairs  
Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington DC 20460

Sir/Madam

One of my constituents, Ms. *AP 6*, has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by my constituent, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Brian Dart. He can be reached in my Statesboro office at (912)489-8797.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

  
Jack Kingston  
Member of Congress

**Reply to: Brian Dart**  
**Congressman Jack Kingston**  
220 Federal Bldg.  
Statesboro, GA 30458

August 5, 1998

The Honorable Jack Kingston  
Representative from Georgia  
1507 Longworth HOB  
Washington, D.C. 20515

Dear Representative Kingston:

Thank you for responding to my letter of July 9. The publications and referral to the Small Business Administration provide perspective that could be helpful to an operator of a small firm.

As I wrote you, the Nunnally Grocery is out of business.

Because of EPA requirements, I must remove the gas tanks and cleanse the surrounding soil. Estimated costs for doing this are in the thousands of dollars.

Therefore, the question I need answered is: Is there any federal agency (the SBA is concerned with operating firms) from which I might obtain a low-cost loan or, in the alternative, a loan guarantee? I cannot re-open the Nunnally Grocery.

Thank you again for your courtesy and I look forward to any further suggestions you may have.

Sincerely

*Exp. 6*

cc: Mr. Brian Dart

*I will contact your office for an appointment to discuss possible financial assistance through SBA for a business that is no longer in operation nor plans for operation. I look forward to speaking with you.*





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT 1 1998

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

Honorable Jack Kingston  
US House of Representatives  
220 Federal Building  
Statesboro, GA 30458

Attn: Brian Dart

Dear Congressman Kingston:

Thank you for your letter of August 7, 1998 and the accompanying letter from your constituent, Ms. *Apple*. Ms. *Apple* had enquired as to the existence of Federal financial assistance for cleaning up contamination from underground storage tanks (USTs) that are located at the defunct Nunnally Grocery store.

The U.S. Environmental Protection Agency's (EPA) Leaking Underground Storage Tank (LUST) Trust Fund is a source of Federal funds that is used to address contamination from leaking petroleum USTs. Each year EPA awards money to States for their use in enforcement, oversight, and cleanup of releases from USTs containing petroleum. When a release is discovered, States are expected to identify the tank owner and direct them to cleanup at their expense. States may rely on the Trust Fund only when they cannot identify an owner who is willing and able (including financially able) to undertake the necessary corrective action.

In your constituent's particular situation, the decision to use the LUST Trust Fund money is entirely within the discretion of the State of Georgia. However, if the State determines that expenditures from the Fund are necessary to assure an effective corrective action, the State is also responsible for pursuing recovery of Trust Fund expenditures from the liable tank owner. For more information about Georgia's administration of the LUST Trust Fund, Ms. Nunnally should contact:

Georgia Environmental Protection Division  
UST Management Program  
4244 International Parkway  
Suite 100  
Atlanta, GA 30354  
Phone: (404) 362-2654

While there may be other sources of Federal funding, they are, as Ms. <sup>EP. 6</sup> indicated in her letter, intended for existing small businesses, and may not be able to provide assistance to a closed business.

The State of Georgia has developed a cleanup fund for addressing releases from USTs. I strongly suggest that Ms. <sup>EP. 6</sup> contact the Georgia EPD (at the above address) to enquire as to her eligibility for coverage under that fund.

I hope this information is helpful. Please feel free to contact my office (703/603-9900) if we can be of further assistance.

Sincerely,



Anna Hopkins Virbick, Director  
Office of Underground Storage Tanks

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX



**Congress of the United States**

**House of Representatives**

May 19, 1998

**Committee On Appropriations**

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

Mr. Jim Aidala  
Associate Assistant Administrator  
U.S. Environmental Protection Agency  
Office of Prevention, Pesticides, and Toxic  
401 M Street, SW (7101)  
Washington DC 20460

Dear Mr. Aidala:

In response to an outcry from peanut producers in Georgia, I am writing to request the assistance of the Environmental Protection Agency in beginning the registration process for a product desperately needed by the peanut industry. The product is diclosulam (DE-564) herbicide, commonly known by peanut growers as Dow AgroScience's "Strongarm".

The Federal Agriculture Improvement and Reform Act (FAIR) of 1996 eliminated peanut support "price escalators". Reducing production costs is now critical for peanut production to remain in the U.S. Strongarm would provide broad-spectrum weed control in peanuts, at an economical price, at a time when growers need it most.

Florida beggarweed is currently a multi-million dollar problem for Georgia growers. Due to a lack of economical herbicides registered for the weeds' control in peanuts, Florida beggarweed has jeopardized sound pest management strategies. In addition, cotton rotation prohibitions on the current product labeled for use in peanuts has severely limited the herbicide's use. Strongarm has no such restrictions, making it a vital tool in a state that is now the second largest cotton producer.

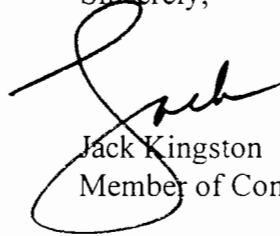
Unfortunately, the relative small size of the peanut crop and the limited market commitment it warrants, means that crop protection companies are not likely to pursue peanut-specific chemistries. With Strongarm, growers would finally have access to a truly broad-spectrum soil applied herbicide developed specifically for use in peanuts. The product could eliminate several post-emergence herbicide applications, reducing overall pesticide use in the crop.

Mr. Jim Aidala  
May 19, 1998  
Page 2

We understand that the implementation of the new Food Quality Protection Act(FQPA)of 1996 is requiring a significant portion of the Agency's resources and we intend to address that issue. However, the spirit of this law encourages expedited approval for new products, like Strongarm that are truly needed and can serve as effective and safe substitutes for some current, less desirable practices.

I sincerely request that EPA identify resources within the Agency that can be used to bring forward the Strongarm registration process. A registration to support use in 1999 is not only a critical need for the State of Georgia, but for the industry as a whole.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Kingston", written over a circular stamp or seal.

Jack Kingston  
Member of Congress

JK:ddb



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUN 23 1998

OFFICE OF  
PREVENTION, PESTICIDES AND  
TOXIC SUBSTANCES

The Honorable Jack Kingston  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Kingston:

Thank you for your letter of May 19, 1998, on behalf of the peanut industry. In your letter, you ask the Environmental Protection Agency (EPA) to expedite the registration of the herbicide diclosulam so that it is available for the 1999 growing season.

The Registration Division of the EPA Office of Pesticide Programs is now in the process of scheduling registration review work. Within the next two months we will be able to predict when the registration decision for diclosulam can be made. The staff of the Registration Division is aware of the weed control requirements for peanut production and hopes to schedule the registration of a product that meets these requirements for the 1999 growing season. Mr. Jim Tompkins of the Registration Division will contact your office in mid-August with the scheduling information. Your constituents should feel free to contact Mr. Tompkins on (703) 305-5697.

I hope that this information proves to be helpful to you. If I may be of further assistance, please let me know.

Sincerely yours,

for

Lynn R. Goldman, M.D.  
Assistant Administrator

JACK KINGSTON  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202)225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912)265-9010  
(912) 265-9013 FAX



Congress of the United States  
House of Representatives

February 5, 1998

Ms. Julie Anderson  
Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington, DC 20460

AL-9800362

Dear Ms. Anderson:

One of my constituents, Mr. Edward Lee, has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by Mr. Lee, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Trish DePriest. She can be reached at (912) 352-0101.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

Please reply to:

Congressman Jack Kingston  
6605 Abercorn St., Suite 102  
Savannah, Georgia 31405  
ATTN: Trish DePriest

Committee On Appropriations

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

LAW OFFICES OF  
LEE, BLACK, SCHEER & HART, P.C.  
24 DRAYTON STREET - 10TH FLOOR  
POST OFFICE BOX 8205  
SAVANNAH, GEORGIA 31412  
TELEPHONE: (912) 233-1271  
TELECOPIER: (912) 232-7344

NOV 10 1997

EDWARD H. LEE  
W. JERROLD BLACK  
STEVEN E. SCHEER  
R. JONATHAN HART (GA & SC)  
MARK A. BRADLEY  
CHRISTOPHER L. ROUSE  
JOHN D. LANGE

OF COUNSEL:  
MALBERRY SMITH, JR.

November 7, 1997

NOV 14 1997

Congressman Jack Kingston  
6605 Abercorn Street  
Savannah, Georgia 31405

RE: Sarah G. Hammock

Dear Jack:

Please let me call to your attention one of the wildest, most ridiculous and abusive exercises of federal power.

Back in the early 1960s, there was a man in Savannah who operated a small moving and storage business whose name was Charles W. Hammock. He traded under the name Hammock Moving & Storage, Inc.

There was some conversation about everybody keeping the atmosphere clean back in that time of day, and people were encouraged to take oil from engines that needed to be changed, put it in a container and deliver it to a recycler.

Mr. Hammock, like practically everybody else in the United States who operated a business, did this. He was paid a penny a gallon for collecting the oil and received a total of some \$16 over the years. He, like everybody else, ceased being able to do that some time in the 70s because the recycler went out of business.

In 1986, Mr. Hammock sold out his business to another man in the moving and transfer business that took the Hammock name and went into business under a similar name so that people would still think that it was Hammock with whom they were doing business. The following year, Mr. Hammock died and his estate was administered and closed. It was a modest estate, and no federal estate tax return was necessary to be filed at that time because of the size of the estate.

Years have gone by. We now have received a letter threatening a lawsuit from Kilpatrick Stockton LLP, Attorneys at Law, of Washington, D.C., addressed to Mr.

Hammock's widow, now 80 years old and being retired since Hammock sold out the moving business in 1986, in which they are demanding that she pay almost \$20,000. This claim is being filed under §§ 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613.

It seems that some time back in the early 90s, a suit was filed by the Superfund against some automobile dealers in Savannah that had also sold oil from changing and servicing automobiles to the same recycler and obtained a judgment against them of a million and some dollars.

This group of automobile dealers, now operating under the name of General Refining Generators Group, proposes to sue under the Environmental Protection Agency Regulations relating to the General Refining Superfund Site in Garden City. This lady's husband received \$16.50 spread out over a period of some 15 years or more, and they are now suing his widow for approximately \$20,000, or threatening to do so, in the United States District Court. His estate has been administered and closed, his corporation is and has been out of business for years, the operation of the business was sold to somebody else years ago.

This is an example of big government harassment and is going to cost this woman a substantial amount of money to employ a lawyer to fight this foolishness in court. With him receiving, over 15 years or more, a total of \$16.50 more than 20 years ago, this is an abuse of federal power. The framers of our Constitution ever envisioned any such crazy law as the Democrats passed under this Code section, and I believe it violates a provision in the Constitution which prohibits bills of attainder. That is an old European principle that provided that if you had committed a crime or owed a debt and you died, the crime followed your bloodline as your blood was contaminated. We know that to be a ridiculous provision at this time, and it certainly never applied in the United States because our Constitution specifically spoke of it.

I do not know what help you can give to Mrs. Hammock unless you can get Congress to abolish recovery of these crazy amounts by people who have been sued by the Superfund in the first place. They are now turning them loose to prey on the general public for everybody they can show had a quart of oil in the 1960s or 70s.

Enclosed herewith is a photocopy of the demand letter in this case so that you will understand the gravity and seriousness of it and how much it upsets an 80 year old widow, without a husband, without a business and with very limited means of support.



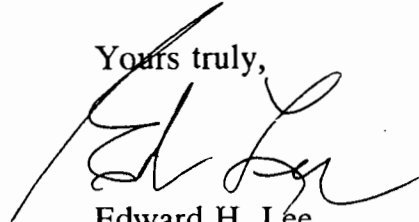
She never owned the Hammock Moving & Storage, Inc., never owned any stock in it and never had anything to do with it except keep his books, for which she was not paid. He never committed a crime and was a very nice, amiable, well-respected small businessman in our community. Turning all of these things into crimes and pursuing people 30 years after the fact (actually 37 years after the fact) is making more and more people in the United States dissatisfied with our form of government. People in the government claim they do not understand Ruby Ridge, Waco and some of these other apparently "wacky" reactions to government action. Just such foolishness as this is the kind of thing that has people stirred up and antagonistic toward the federal government.

At this point, most people feel that the United States, through its Internal Revenue Service, its Alcohol and Tobacco Tax Unit and a number of its other agencies, are abusing the public, and that it is reaching the status of the KGB of Russia and the Nazi operators in Germany. This is purely an un-American type activity and needs to be gotten off the books rather than these environmentalist nuts going around hassling 80 year old widows because their husband was paid \$16.50 37 years ago.

You can call me at any time, at home or at work. I realize that you travel, but I really think this is one of these very abusive laws that needs to come off the books.

You can reach me in Savannah on my digital pager, \_\_\_\_\_, my home telephone, \_\_\_\_\_, or my office number, (912) 233-1271. Thank you.

Yours truly,



Edward H. Lee  
For the Firm

EHL/cst

cc Mrs. Sarah G. Hammock

**KILPATRICK STOCKTON LLP**

Attorneys at Law  
Suite 800  
700 Thirteenth Street, N.W.  
Washington, D.C. 20005  
Telephone: 202.508.5800  
Facsimile: 202.508.5858

October 28, 1997

**PRIVILEGED AND CONFIDENTIAL  
SETTLEMENT COMMUNICATION**

BY CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Hammock Moving & Storage, Inc.  
c/o Sarah Hammock  
401 Windsor Road  
Savannah, GA 31406

Dear Mr. Sir/Madam:

This Firm has been retained by the General Refining Generators Group ("Group") to pursue you and/or your company for recovery of costs incurred by the Group in a settlement with the Environmental Protection Agency ("EPA") relating to the General Refining Superfund Site in Garden City, Georgia. In 1994, EPA filed a complaint in federal district court under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA" or "Superfund") and other laws for recovery of costs it incurred in responding to the release of hazardous substances at the Site. This litigation was resolved upon entry of a consent decree by the district court in November 1994.

The purpose of this letter is to place you on notice of our client's claim, and to offer you an opportunity to settle your company's liability before cost-recovery litigation is filed by the Group in federal court. You should consider this letter a formal demand under Sections 107 and 113 of CERCLA, 42 U.S.C. §§9607 and 9613, for payment of your share of \$1,050,000 incurred by the Group in settling with EPA and identifying additional potentially responsible parties ("PRPs").

**Site Background**

The General Refining Company was a used oil re-refinery that operated from 1961 to approximately 1976. The site consists of 16 acres located in the city limits of Garden City, Georgia, 0.3 miles northwest of Highway 80, at the intersection of Old Louisville Road and Junction Avenue. Pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, EPA

## **KILPATRICK STOCKTON LLP**

Hammock Moving & Storage, Inc.

October 28, 1997

Page 2

determined in August 1985 that a release or threatened release of hazardous substances had occurred at the site. Hazardous substances present in used oil and petroleum sludges included lead, copper, chromium, arsenic, and polychlorinated biphenyls ("PCBs"). These substances were found in oil storage tanks, unlined waste lagoons, filter cake material, and numerous drums stored on the site.

In August 1985, EPA initiated a removal action at the site to abate the release or threatened release of hazardous substances. This removal included excavation and treatment of liquids and sludges in the lagoons, treatment of liquids and sludges from tanks and drums, and disposal of all contaminated equipment. The removal activities were completed in August 1990.

### **General Refining Site Generators Group**

While completing removal activities at the site, the EPA and the Department of Justice ("DOJ") sought recovery of EPA's response costs from the site owner/operator and from a representative group of parties who allegedly arranged to send used oil to the General Refining Company for treatment or disposal. In 1988, a group of those companies formed the General Refining Site Generators Group for the purpose of minimizing transaction costs with DOJ and organizing an effort to identify additional parties to contribute to the reimbursement of EPA's response costs at the Site.

DOJ initially demanded \$3.5 million as reimbursement of EPA's response costs at the Site. In negotiations with DOJ, the Group was able to reduce that demand by over \$1 million, to \$2,150,000. The Group was also able to persuade the Department of Defense, as well as the site owner/operator and several major oil companies, to contribute a significant share of the \$2,150,000, which further reduced the Group's liability at the Site. Eventually, the 32 members of the Group settled with each other and with the government for a total cost of \$1,050,000. Under the circumstances, the settlement was extremely favorable in contrast to most cost-recovery cases brought by the government.

The Group has now authorized our Firm to seek recovery of a portion of those costs from your company, pursuant to Sections 107 and 113 of CERCLA. As you can understand, the Group believes it is only fair that other entities that arranged to send used oil to the General Refining Company pay a share of the cleanup costs. Our approach is intended to spread the cost more broadly over the business community, thereby reducing the cost to each company/individual to a relatively modest contribution.

## KILPATRICK STOCKTON LLP

Hammock Moving & Storage, Inc.

October 28, 1997

Page 3

### Liability of Your Company

Sections 107 and 113 of CERCLA allow parties who have settled their CERCLA liability with the government to seek recovery of their costs from liable parties who have not settled. The Group possesses documents which establish that your company is liable at the General Refining Site pursuant to Section 107(a)(3) of CERCLA. That section imposes liability on

any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned for possessed by such person, by any other party or entity, at any facility or incineration vessel owned or operated by another party or entity ...

42 U.S.C. § 9607(a)(3). Copies of documents linking your company to the Site are included as **Attachment 1**.

Under Section 107 of CERCLA, 42 U.S.C. § 9607, your company is strictly, jointly and severally liable for the response costs incurred by the Group at the Site, plus interest. As noted above, the Group incurred \$1,050,000 in settling their share of liability with the government. Moreover, the Group has since incurred other recoverable response costs in identifying potentially responsible parties at the Site, including your company.

### Settlement Offer

To avoid expensive and time-consuming litigation, the Group has authorized us to offer your company an opportunity to settle its liability at the Site on the following terms. The Group members who settled earlier established a minimum settlement amount of \$10,000 plus a per gallon charge for used oil based on volumes reflected on existing site documents. *For purposes of limiting your share to promote swift settlement, the Group is willing to reduce the minimum settlement amount to \$5,875 for parties with documented used oil sales of 500 gallons or less. Parties contributing more than 500 gallons would pay \$5,875 plus \$11.75 per gallon for documented gallons in excess of 500 gallons. (\$11.75 is the average per-gallon settlement payment made by the members of the Group).*

## KILPATRICK STOCKTON LLP

Hammock Moving & Storage, Inc.

October 28, 1997

Page 4

Also in the interest of promoting settlement, the Group has not included any volumes of used oil based solely on testimony of General Refining employees and not supported by documentary evidence, even though the EPA included such volumes on its own PRP list. For many of the companies receiving this letter, their volumes on EPA's list are considerably greater than the volumes we have assigned. In short, to promote settlement without litigation we are assigning to PRPs the lower volumes on our "documented" list rather than the higher volumes on EPA's list. *Please be advised that we are only willing to make the above concessions if your company agrees to settle prior to our filing a cost-recovery suit.*

Based on the documents provided in **Attachment 1**, we have calculated the number of gallons of used oil or other hazardous substances your company arranged to send to the General Refining Site. As noted above, we then calculated your settlement payment as follows:

- If total gallons are 500 or less, settlement payment = \$5,875.
- If total gallons are 500 or more, settlement payment = (Gallons in excess of 500 gal. × \$1,175) + \$5,875.

For example, if your total contribution to the site was 1,000 gallons, your settlement payment would be \$11,750, calculated as follows:

$$(500 \times \$11.75) + 5,875 = \$11,750.$$

The amount of documented used oil attributed to your company, and your calculated settlement payment, is shown in the Settlement Payment Calculation in **Attachment 2**. In return for payment of this settlement amount, the Group will provide a covenant not to sue your company in the cost-recovery lawsuit we file against the other recalcitrant parties, as well as an agreement to indemnify, defend, and hold you harmless from third-party cost-recovery claims. **Attachment 3** is our proposed Settlement Agreement, which provides this covenant not to sue. To avoid unnecessary and costly litigation, we encourage you to immediately sign and return to us the signed agreement together with your settlement payment.

### Conclusion

The Group is offering your company a one-time opportunity to avoid litigation by paying its fair share of costs incurred by the Group in settling with the

**KILPATRICK STOCKTON LLP**

Hammock Moving & Storage, Inc.

October 28, 1997

Page 5

government. If you agree to the terms of our settlement proposal, please have the appropriate representative of your company execute and return to me the enclosed Settlement Agreement. Pursuant to the terms of this agreement, you will be released from liability by the Group upon receipt of your settlement payment. If compelled to litigate, the Group understandably will seek damages substantially in excess of this settlement amount, in addition to interest and attorneys fees.

Do not hesitate to call us (at 202-508-5800) if you wish to discuss this matter. *However, please be advised that in light of a potential statute of limitations issue, the Group will have no choice but to file a CERCLA cost recovery suit by November 23, 1997 against any recipient of this demand letter who has not settled with the Group by that date.*

Sincerely,

*Ana M. Robinson*

*for*

Vance Hughes  
KILPATRICK STOCKTON  
700 13th Street, N.W.  
Washington, DC 20005  
(202) 508-5800  
Counsel to General Refining  
Generators Group

Attachments

MEMO

200 Gals

Red oil

Oil

2.50

12-1-67

L.H.H.

LOCAL & LONG  
DISTANCE  
MOVING

"For Your Best Move"

PACKING  
CRATING  
STORAGE

**HAMMOCK**

MOVING & STORAGE COMPANY

248 EAST LATHROP AVE.  
SAVANNAH, GA. 31401

PHONE 233-6373  
236-3568

AGENT UNITED VAN LINES, INC.

"Moving With Care Everywhere"

MEMO

11-24-67

250

Holler

32.00

174.40

LOCAL & LONG  
DISTANCE  
MOVING

"For Your Best Move"

PACKING  
CRATING  
STORAGE

**HAMMOCK**

MOVING & STORAGE COMPANY

248 EAST LATHROP AVE.  
SAVANNAH, GA. 31401

PHONE 233-6373  
236-3568

AGENT UNITED VAN LINES, INC.

"Moving With Care Everywhere"



MEMO

2.00 Labor  
Used air  
paid  
82.00  
8-23-68  
L. G. Dodge

LOCAL & LONG  
DISTANCE  
MOVING

"For Your Best Move"

PACKING  
CRATING  
STORAGE

**HAMMOCK**  
MOVING & STORAGE COMPANY  
248 EAST LATHROP AVE.  
SAVANNAH, GA. 31401

PHONE 233-6373  
236-3568

AGENT UNITED VAN LINES, INC.  
"Moving With Care Everywhere"

MEMO

2.00 Labor  
Used air  
paid  
\$20.00  
9-20-68  
L. G. Dodge

LOCAL & LONG  
DISTANCE  
MOVING

"For Your Best Move"

PACKING  
CRATING  
STORAGE

**HAMMOCK**  
MOVING & STORAGE COMPANY  
248 EAST LATHROP AVE.  
SAVANNAH, GA. 31401

PHONE 233-6373  
236-3568

AGENT UNITED VAN LINES, INC.  
"Moving With Care Everywhere"

150 Labor

1/2 ckt air

first

\$1.50

10-17-68

L. H. H. H.

	MEMO.	
290		
570	660	20.00
220	360	
220	220	
720	220	
270	440	
150		
220	19.00	
<u>26.60</u>		

LOCAL & LONG  
DISTANCE  
MOVING

"For Your Best Move"

PACKING  
CRATING  
STORAGE

**HAMMOCK**

MOVING & STORAGE COMPANY

248 EAST LATHROP AVE.

PHONE 233-6373

SAVANNAH, GA. 31401

236-3568

AGENT UNITED VAN LINES, INC.

"Moving With Care Everywhere"

MEMO

200 Lathrop

1st rd

paid \$2.00

12-1-68

12-5-68

LOCAL & LONG  
DISTANCE  
MOVING

"For Your Best Move"

PACKING  
CRATING  
STORAGE

**HAMMOCK**

MOVING & STORAGE COMPANY

248 EAST LATHROP AVE.

PHONE 233-6373

SAVANNAH, GA. 31401

236-3568

AGENT UNITED VAN LINES, INC.

"Moving With Care Everywhere"

200 Lathrop

1st rd

\$2.00

paid

12-5-68

2.50 Gallon

Used oil

paid

\$2.50

2-20-69

L. H. Hodge

250 Dollars

Red at

paid

82.50

1-24-67

L. H. Hoag

Written on Hammock =

MEMO

LOCAL & LONG  
DISTANCE  
MOVING

*"For Your Best Move"*

PACKING  
CRATING  
STORAGE

**HAMMOCK**

MOVING & STORAGE COMPANY

248 EAST LATHROP AVE.  
SAVANNAH, GA. 31401

PHONE 233-6373  
236-3568

AGENT UNITED VAN LINES, INC.

*"Moving With Care Everywhere"*

**SETTLEMENT PAYMENT CALCULATION**

**General Refining Site**

Name of PRP Hammock Moving + Storage

Total Gallons Contributed 1650

Settlement Payment Calculation:

$$= 5,875 + (\text{No. gal in excess of 500} \times 11.75)$$

$$= 5,875 + (\underline{1150} \times 11.75)$$

$$= \$ \underline{19387.50}$$

## GENERAL REFINING SUPERFUND SITE COST REIMBURSEMENT AGREEMENT

This cost reimbursement agreement ("Agreement") is made between the entity noted on the signature page hereto ("Settling Party") and the General Refining Generators Group ("Group") whose authorized representatives have executed this Agreement.

WHEREAS, the General Refining Company was a used oil re-refinery that operated from 1961 to approximately 1976 at a 16-acre site located in Garden City, Georgia, and is now known as the General Refinery Superfund Site ("the Site");

WHEREAS, the United States Environmental Protection Agency ("EPA") concluded that the Site presented an imminent and substantial endangerment to the public health or welfare as a result of the release of hazardous substances during General Refining's re-refining operations;

WHEREAS, under EPA's interpretation of Section 107(a)(3) of the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9607(a)(3), the Agency contends that any person who sold or otherwise arranged to send used oil or other hazardous substances to the Site is jointly and severally liable as a person who arranged for the treatment or disposal of a hazardous substance;

WHEREAS, the Group has incurred and continues to incur "response costs" as that term is defined in Section 101(25) of CERCLA, 42 U.S.C. 9601(25), in responding to the release or threat of release of hazardous substances at or in connection with the Site;

WHEREAS, the Settling Party wishes to be relieved, to the extent provided herein, from further obligation to the Group in connection with the Site;

WHEREAS, in consideration for such relief, the Settling Party is willing to reimburse a share of the costs incurred by the Group in reaching settlement with EPA; and

WHEREAS, the Group and the Settling Party agree that they enter into this Agreement without admission or adjudication of any question of fact or law and that, by entering into this Agreement, neither party adopts, admits, or assumes liability nor do they waive any defenses, except as provided in this Agreement.

NOW, THEREFORE, IT IS AGREED by the parties hereto as follows:

1. Definitions



A. "Consent Decree" means the Consent Decree entered by the United States District Court for the Southern District of Georgia in United States v. General Refining Co. et al., C.A. No. CV494-215, on November 23, 1994.

B. "Settling Party" means the entity noted as the Settling Party on the signature page attached hereto and who has executed this Agreement.

C. "Covered Matters" means: (i) any and all claims, demands, lawsuits, or judgments arising out of or relating to the work performed by EPA pursuant to the Consent Decree; and (ii) any and all response costs or other costs incurred or to be incurred by the Group, including investigative costs and attorney's fees, in negotiating with EPA or taking any other actions regarding matters addressed in the Consent Decree or in identifying or pursuing cost recovery for such matters from any person.

D. Notwithstanding the foregoing Section 1.C., "Covered Matters" shall not include any claims of a Settling Party against its brokers, transporters, or other entities with which the Settling Party has a contractual or quasi-contractual relationship as to waste brokered, transported, or otherwise involving such entities.

E. Notwithstanding the foregoing Section 1.C., "Covered Matters" shall not include any claims, demands, lawsuits, judgments, or other costs arising out of or relating to any activities beyond the matters addressed in the Consent Decree (all response costs incurred to date by the Group with respect to the Site *are* assumed to be "Covered Matters").

F. "Group" or "General Refining Generators Group" means the group of companies organized to negotiate a settlement with EPA relating to the Site and to identify and pursue additional responsible parties, and who have signed the General Refining Site Generators Group Agreement. The term shall include the Group itself as well as individual members of the Group.

2. In consideration for the relief provided by this Agreement, the Settling Party shall pay to the Group the amount listed for such Settling Party in the Settlement Payment Calculation attached hereto within 15 days of the Settling Party's execution of this Agreement.

3. Upon receipt of the Settling Party's settlement payment, the Group covenants not to sue, releases, and forever waives any and all claims it or its members may have against the Settling Party for Covered Matters.

4. Except as provided in paragraph 5, in further consideration for receipt of the settlement payment, the Group agrees to defend, indemnify and hold harmless the Settling Party for Covered Matters.

5. If any action, demand, or claim covered by the foregoing paragraph 4 shall be brought or asserted against the Settling Party, the Settling Party shall, within a reasonable time, notify the Group in writing and only upon receipt of such notice shall the Group be obligated to defend, indemnify, and hold harmless the Settling Party for covered matters. At the Group's request, upon receipt of such notice, the Group shall have the right to assume the defense of such notifying Settling Party. The Settling Party shall cooperate with the Group, to the extent reasonably practicable, in the defense of the action, demand, or claim. The Group shall not be liable for any settlement by the Settling Party of any action, demand, or claim against the Settling Party affected without the Group's written consent. If an action, demand, or claim against the Settling Party is settled with the written consent of the Group, or if there shall be a final judgment against the Settling Party in any such action in which the Group has assumed the defense of the Settling Party, the Group agrees to indemnify and hold harmless, to the extent provided in this Agreement, the Settling Party from and against such judgment or settlement.

6. The Settling Party covenants not to sue the Group or any of its members with regard to Covered Matters, except to enforce the terms of this Agreement.

7. If a Settling Party fails to disclose information that is known to the Settling Party on the date such Party executes this Agreement, and such information indicates that the Settling Party contributed material to the Site in an amount greater than that indicated in the Settlement Payment Calculation attached hereto, then in order to have this Agreement remain effective as to that Settling Party, the Settling Party shall pay the Group \$12 per gallon of such material that the Settling Party failed to disclose. This Agreement shall become null and void with respect to a Settling Party who owes such an additional payment but fails to make the payment within 30 days of receipt of a written payment demand from the Group.

8. The Settling Party represents and warrants that, to the best of its knowledge and belief, the volume of used oil or other material which that Party arranged to send or have transported to the General Refining Site is as shown in the Settlement Payment Calculation attached hereto.

9. Any litigation undertaken against recalcitrant parties (i.e., parties other than a Settling Party) shall be undertaken, and paid for, by the Group. The proceeds of such litigation shall inure to the benefit of the members of the Group only, and not to any Settling Party.

10. This Agreement does not constitute and shall not be interpreted or construed as an admission by the parties hereto of any liability under any federal, state, local, or common law, or an admission that the parties are in violation of or ever have violated any laws, rules, regulations and/or ordinances.

11. This Agreement shall be construed and enforced under the laws of the State of Georgia.

12. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their successors and assigns.

13. This Agreement constitutes the entire understanding between the Group and the Settling Party with respect to this Agreement's subject matter and replaces any and all prior agreements or understandings, if any, between the parties hereto.

14. Any notice required by this Agreement to be given to the Group shall be sent to:

Vance Hughes  
Kilpatrick Stockton LLP  
700 13th Street, NW  
Suite 800  
Washington, DC 20005

In the event that the above address changes, the Group will so notify the Settling Party at that Party's address noted on the signature page attached hereto.

15. The terms of this Agreement may be amended only by mutual agreement of the parties hereto. However, nothing in this Section shall prevent the Group from entering into any other agreement with a person who is not a party to this Agreement, as the Group deems appropriate.

16. The effective date of this Agreement shall be the later of the date the Group receives the signature page fully executed by the Settling Party or the Settling Party's settlement payment.

17. If, as of the effective date of this Agreement, there is a pending cost-recovery action by the Group against the Settling Party, and the Group nevertheless decides to enter into this Agreement with such party, the Group shall promptly stipulate to the voluntary dismissal of such Settling Party from the litigation.

**SETTLEMENT PAYMENT CALCULATION**

**General Refining Site**

Name of PRP Hammock Moving + Storage

Total Gallons Contributed 1650

Settlement Payment Calculation:

$$= 5,875 + (\text{No. gal in excess of 500} \times 11.75)$$

$$= 5,875 + (\underline{1150} \times 11.75)$$

$$= \$ \underline{19387.50}$$

**GENERAL REFINING SUPERFUND SITE  
COST REIMBURSEMENT AGREEMENT SIGNATURE PAGE**

IN WITNESS WHEREOF, the Parties hereto, which may be by and through their appointed counsel, enter into this Agreement. Each person signing this Agreement represents and warrants that he or she has been duly authorized to enter into this Agreement by the company or entity on whose behalf it is indicated that the person is signing.

**FOR SETTLING PARTY:**

Name of Settling Party:

\_\_\_\_\_

Total Settlement Payment:

\$ \_\_\_\_\_

\_\_\_\_\_  
Typed name of authorized  
company representative

\_\_\_\_\_

\_\_\_\_\_  
Signature of authorized  
company representative

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Title of authorized company  
representative

\_\_\_\_\_  
Contact person or representative for future  
correspondence, with Address, Telephone  
Number and Fax number

**FOR GENERAL REFINING SITE  
GENERATORS GROUP:**

\_\_\_\_\_  
Vance Hughes  
KILPATRICK STOCKTON LLP  
700 13th Street, N.W.  
Washington, DC 20005  
Phone: (202) 508-5800  
Fax: (202) 508-5858



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET, SW  
ATLANTA, GEORGIA 30303-8909

APR 07 1998

Honorable Jack Kingston  
Member, United States  
House of Representatives  
6605 Abercorn Street, Suite 102  
Savannah, Georgia 31405

Dear Congressman Kingston:

Thank you for your letter, dated February 5, 1998, on behalf of Mr. Edward Lee, concerning the General Refining Superfund Site in Garden City, Georgia.

A few years ago the Environmental Protection Agency (EPA) settled a cost recovery case with a group of Potentially Responsible Parties (PRPs) identified in connection with this Site. In October 1997, this group (known as the General Refining Generators Group) filed a contribution protection suit against other PRPs who had not settled with EPA or the PRP group. This suit was **not** an action taken by the EPA. However, § 113(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) allows any person to seek contribution from any other person who is **liable or potentially liable** under § 107(a). Additionally, § 113(f)(2) states that a person who has resolved its liability to the United States or a State in an administrative or judicially approved settlement shall not be liable for claims of contribution regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially liable persons unless its terms so provide, but it reduces the potential liability of the others by the amount of the settlement.

Neither the Hammock Moving & Storage Company nor Mrs. Sarah G. Hammock was named in this suit. Based on our research, Mrs. Hammock did not own or operate the company, nor was she a shareholder in this company. Thus, Mrs. Hammock is not a responsible party at the General Refining Superfund Site and bears no liability therein. EPA is of the opinion that the letter was sent in error.

I appreciate your interest in this and other Superfund Sites and hope that this will answer the concerns raised by Mr. Lee. If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "John H. Hankinson, Jr.", is written over a horizontal line.

John H. Hankinson, Jr.  
Regional Administrator

A small, handwritten mark or signature, possibly initials, is written in black ink below the name "John H. Hankinson, Jr.".

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202)225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912)265-9010  
(912) 265-9013 FAX

AL-9800440



Committee On Appropriations

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

## Congress of the United States

### House of Representatives

February 6, 1998

Ms. Julie Anderson  
Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington, DC 20460

Dear Ms. Anderson:

One of my constituents, Mr. Robert Holbrook, has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by Mr. Holbrook, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Trish DePriest. She can be reached at (912) 352-0101.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

Please reply to:

Congressman Jack Kingston  
6605 Abercorn St., Suite 102  
Savannah, Georgia 31405  
ATTN: Trish DePriest

# WETLAND ENVIRONMENTAL TECHNOLOGIES

Environmental and Mitigation Banking Consultants

February 2, 1998

The Honorable Jack Kingston  
1507 Longworth  
House Office Building  
Washington, DC 20515

Dear Congressman Kingston:

I have enclosed for your review our brief and supporting documents regarding the conflict with the Environmental Protection Agency over wetland mitigation banking in Georgia. As you know, our correspondence to Ms. Browner was responded to by Mr. John Hankinson, Regional Administrator for the Environmental Protection Agency Region 4 Office. Before responding to Mr. Hankinson's letter, we would like to avail ourselves of the offer Mr. Hankinson made to meet with he and other officials at EPA in an attempt to resolve the issues. It appears Mr. Hankinson has delegated to Mr. Cox, in the Atlanta Office, the task of scheduling a meeting. Mr. Cox has cancelled a meeting scheduled for January 29<sup>th</sup> and has rescheduled a meeting for February 11<sup>th</sup>. Although we have expressed the importance of Mr. Hankinson joining us in the meeting, Mr. Cox has not encouraged us to expect Mr. Hankinson's presence. We are pessimistic that this meeting will result in any resolution. That is why we need your help to get this matter resolved at a higher level in the EPA.

Your support and involvement in this issue is vital to the continued health and viability of mitigation banking. If you have any questions or comments, please do not hesitate to give Bob Proctor or me a call. Thank you for your efforts and your continued support.

Very truly yours,



Robert J. Holbrook  
Chairman

RJH:blc  
Attachment

cc: Arthur L. Berger  
W. Brooks Stillwell, Esq.  
Robert J. Proctor, Esq.

Atlanta, Georgia  
6520 Powers Ferry Road - Suite 110 - Atlanta, Georgia 30339 - Telephone: (770) 541-4200 - Facsimile: (770) 541-4210  
Savannah, Georgia  
1205 Fifth Avenue - Tybee Island, Georgia 31328 - Telephone: (912) 786-9993 - Facsimile: (912) 786-0803





**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 4

ATLANTA FEDERAL CENTER  
61 FORSYTH STREET, SW  
ATLANTA, GEORGIA 30303-8909

**MAR 09 1998**

Honorable Jack Kingston  
Member, United States  
House of Representatives  
6605 Abercorn Street  
Suite 102  
Savannah, Georgia 31405

Dear Congressman Kingston:

Thank you for your letter dated February 9, 1998, on behalf of Mr. Robert Holbrook concerning his letter dated February 3, 1998. Mr. Holbrook has raised concerns about Environmental Protection Agency (EPA), Region 4, actions regarding the use of the wetland mitigation bank at the Monastery of the Holy Ghost (Monastery Bank) operated by Wetland Environmental Technologies (W.E.T.), Inc. This particular correspondence deals with a proposed meeting regarding these concerns.

On February 11, 1998, Mr. Tom Welborn, Chief of the Wetlands, Coastal and Water Quality Grants Branch, Mr. Bill Cox, Chief of the Wetlands Section, and Mr. Bob Lord, Wetlands Regulatory Program Manager met with Mr. Holbrook and Mr. Robert Proctor. The meeting allowed EPA to restate our concerns with elements of the Monastery Bank's banking instrument and to summarize our concerns about the process the Corps of Engineers (COE) Savannah District used to approve the banking instrument over the objections of the other members of the Georgia Mitigation Banking Review Team (MBRT). It also provided a forum for Mr. Holbrook and Mr. Proctor to respond to these concerns and provide their perspective on the issues. While there was beneficial dialog, all parties agreed that the issues can only be resolved through a meeting of the MBRT.

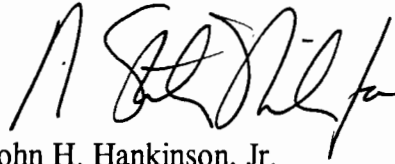
Over the past year EPA has on several occasions requested in writing to the COE that they convene a meeting of the MBRT to specifically address issues related to the Monastery Bank. On March 2, 1998, the COE contacted members of the MBRT to arrange such a meeting. It now appears that a meeting will be arranged sometime during the third or fourth week of March.

EPA continues to advocate that with a banking instrument agreed upon through a consensus of the MBRT, and which addresses the concerns of all the federal and state member agencies of the MBRT, the Monastery Bank has considerable potential as a wetland mitigation bank. We are optimistic that this process will resolve the outstanding issues that EPA and other agencies have with the Monastery Bank.

As we stated at the February 11th meeting and supported with direct examples, EPA is strongly committed to the establishment and use of wetland mitigation banks in Georgia based on the federal and the state guidance, coordinated with other federal and state agencies and in accordance with the national goal of no net loss and eventual net gain of wetlands. The Monastery Bank is the only wetland mitigation bank in Georgia that has these unresolved issues. There are a number of other private and government-sponsored wetland banks in the State that are operating very successfully, including another bank in southeast Georgia operated by W.E.T. Some of the coastal mitigation banks are selling mitigation credit as fast as they can generate it. EPA also wants to utilize mitigation banking to the benefit and protection of critical watersheds such as the Chattahoochee River. At the meeting Mr. Holbrook noted that W.E.T. may be considering opening a second bank in the Chattahoochee watershed. EPA supports this concept. However, it is important for the bank to be organized such that it does not result in a net loss of wetlands. The MBRT will assure this through the approach established to review and approve the banking instrument.

If I may be of further assistance, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "John H. Hankinson, Jr.", written in a cursive style.

John H. Hankinson, Jr.  
Regional Administrator

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202)225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912)265-9010  
(912) 265-9013 FAX

AL-78 00348



**Congress of the United States**  
**House of Representatives**

February 4, 1998

**Committee On Appropriations**

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

Director, Congressional Affairs  
Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington, DC 20460

Sir/Madam

One of my constituents, Mr. *exp. u* has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by my constituent, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Bruce Bazemore. He can be reached at (912) 352-0101.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

cc: Governor Zell Miller  
State of GA

Reply to: Bruce Bazemore  
Congressman Jack Kingston  
6605 Abercorn St., Suite 102  
Savannah, GA 31405

1/27/98

Fed's set the laws.  
DNR is doing the sampling.  
Constituent sends in the sample.

DNR is not picking up sample &  
sampling in the correct time, once  
dropped off by overnight mail.

Wants a location east/south of Macon  
to inspect water samples.

It cost \$16.00 to send the 2 pd. package

A private lab charges \$50.00  
\* Will have to raise costs. Sells \$150.00/year  
to only 15 customers each.

Exp. 6

Townsend, GA 31331  
Why not go back quarterly or bi-annually &  
return to monthly only if there are problems.  
Has been running his system since 1980.

# THE GEORGIA ENVIRONMENTAL PROTECTION DIVISION

## LABORATORY LIST FOR MICROBIOLOGICAL DRINKING WATER ANALYSES

Analytical Services, Inc. Norcross, Georgia	Lab Phone # 770/734-4200	Hydrologics, Inc. Macon, Georgia	Lab Phone # 912/757-0811
City of Brunswick Keith Morgan, Superintendent of Water	Lab Phone # 912/267-5573 Dispatcher # 912/267-5578	Microbac Laboratories, Inc. Atlanta, Georgia	Lab Phone # 404/873-1896
City of Carrollton Lewis Mason, Superintendent	Lab Phone # 770/830-2021	Savannah Laboratories and Environmental Services Savannah, Georgia	Lab Phone # 912/354-7858
City of Cartersville Lisa A. Edwards, Laboratory Director	Lab Phone # 770/387-5681	Ampro Laboratories Cumming, Georgia	Lab Phone # 770/887-6011 Fax # 770/781-5846
Catoosa County Water Rick Brown, Maintenance Supervisor	Office Phone # 706/937-9370	Food & Dairy Research Assoc. Commerce, Georgia	Lab Phone # 800/728-9292 or 706/335-9703
City of Cedartown Anne Wright, Laboratory Supervisor	Lab Phone # 770/748-3220 Ext. 276	Town of McCormick Water Treatment Plant Laboratory McCormick, South Carolina	Lab Phone # 864/465-2233
Chatham County Health Department Deborah Leslie, Laboratory Director	Lab Phone # 912/356-2148	Woodson - Tenent Lab., Inc. Gainesville, Georgia	Lab Phone # 770/536-5909
Cherokee County Water Hoyt Ledford, Laboratory Manager	Phone # 770/479-2911		
Columbia County Water Robert A. Pollard, Laboratory Director	Lab Phone # 706/860-2587		
City of Dublin Michael Clay, Utilities Director	Lab Phone # 912/277-5050		
City of Fort Valley Glen M. Taylor, Director of Utilities	Lab Phone # 912/825-7701		
Jekyll Island Bobby Palmer, Superintendent of Water	Lab Phone # 912/635-4047		
City of LaGrange David Keith Hestor, Lab Supervisor	Lab Phone # 706/883-2130		
City of Moultrie Charlie Haulbrook, Lab Director	Lab Phone # 912/890-5437		
City of Newnan Larry J. Hand, Superintendent	Lab Phone # 770/253-4925		
City of Thomasville Bill Gerber, Superintendent Water & Wastewater	Office Phone # 912/225-4318		
City of Tifton Damen Harper, Dir., Water & Wastewater	Lab Phone # 912/386-2115		
City of Waycross June Justice, Laboratory Superintendent	Lab Phone # 912/287-2994		
Cobb County Marietta Water Authority Wayne Jackson Director of Laboratories	Lab Phone # 770/974-4286		



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER  
61 FORSYTH STREET, SW  
ATLANTA, GEORGIA 30303-8909

MAR 05 1998

Honorable Jack Kingston  
Member, United States  
House of Representatives  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405

Dear Congressman Kingston:

Thank you for your letter dated February 4, 1998, on behalf of *exp. 6* concerning the monitoring frequency for microbiological contamination in drinking water and the new procedures for sampling and analysis requiring no more than 30 hours between sample collection and initiation of analysis for total coliform.

It is very important to monitor drinking water frequently for total coliform to ensure against disease outbreaks that may result from drinking water contaminated by microbials. Due to the severity of health effects due to contamination, EPA requires all community water systems to monitor monthly without exception. The population served by the public water system determines the number of samples required per month. For the size system referred to by Mr. only one sample per month is required by federal law.

In order to ensure that samples reflect actual coliform conditions in the water, EPA has required that the time from sample collection to initiation of analysis for total coliform, fecal coliform, and *E. coli* in drinking water must not exceed 30 hours. Research studies have shown that transit times that exceed 30 hours result in coliform counts dropping dramatically. An analysis conducted after 30 hours would not reflect the true conditions of the drinking water in the system. In order for laboratories to maintain certification to test drinking water samples for microbial contamination, the 30 hour timeline must be met in all cases.

The State of Georgia alerted all drinking water sample collectors concerning the reduced holding times (from 48 hours to 30 hours) for microbial samples in January 1998. This requirement will be effective July 1, 1998. The alert provided information on sampling options. These options include sending samples to the State laboratory in Atlanta through overnight mail, or using a private lab near the treatment facility and providing the results to the State by the 10th of the following month. Both of these options are consistent with federal requirements.

There are two labs in the vicinity of Townsend that conduct microbiological testing for between \$15 to \$25 per sample. To inquire about fees and procedures for testing at a private lab

near Mr. <sup>enle</sup> we recommend that Mr. <sup>enle</sup><sup>2</sup> call the City of Brunswick Lab at (912) 267-5573 or the Jekyll Island Lab at (912) 635-4047.

I hope this information will assist Mr. in the operation of his public water system. We understand the costs involved with providing safe drinking water, but at the same time recognize the importance of regular water system maintenance in order to protect public health. If you have any further questions on this matter, please do not hesitate to contact me.

Sincerely,



John H. Hankinson, Jr  
Regional Administrator

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1034 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX



## Congress of the United States

### House of Representatives

October 29, 1999

AL-9902637  
Committee On Appropriations

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

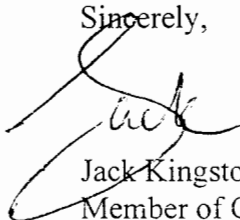
The Honorable Carol Browner  
Administrator, The Environmental Protection Agency  
401 M Street, S.W.  
Washington DC 20460

Dear Administrator Browner:

I would like to call your attention to a letter I received from some of my constituents in Savannah, Georgia, regarding apparent EPA plans to issue new rules regarding diesel fuels. While they have no problem with the goal of the proposal, they are very concerned about the manner in which it may be implemented. I have enclosed a copy of their letter to me on this issue and would appreciate your review of their concerns. I share their concerns about the practical difficulty and the costs associated with the phased-in standards, and I am hopeful that you can find a way to address its negative impact in a favorable way.

Thank you very much for your attention to this matter. Please do not hesitate to contact me if I can be of assistance or provide additional information. I look forward to hearing from you soon.

Sincerely,



Jack Kingston  
Member of Congress

JK:ajs

cc:Chairman Michael Bilirakis, House Commerce Subcommittee on Health and Environment  
Mr. Robert Demere, President of Colonial Group, Inc.



# COLONIAL GROUP, INC.

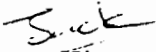
PHONE 912-236-1331

101 NORTH LATHROP AVENUE  
POST OFFICE BOX 576  
SAVANNAH, GEORGIA 31402-0576

FAX 912-235-3881  
EXECUTIVE:  
FAX 912-235-3863

October 12, 1999

The Honorable Jack Kingston  
U.S. House of Representatives  
1034 Longworth House Office Building  
Washington, D.C. 20515-1001

  
Dear Congressman Kingston:

I am writing on behalf of my company, Colonial Group, Inc., of Savannah, Georgia, to express our concerns about a proposal from the Environmental Protection Agency ("EPA") relating to sulfur standards for diesel fuel. EPA is evidently planning to establish a new requirement for fuel used in diesel engines. That standard would result in environmental benefits by facilitating the use of new emission control technology that the Agency hopes will be available by 2004 for use on light-duty and heavy-duty diesel vehicles. Colonial Group, Inc. does not oppose the setting of a new standard. However, we strongly object to the manner in which the EPA plans to implement its program. It will cost tens of thousands of dollars for each distribution facility and will do little to reduce pollution.

## I. Background

Historically, diesel fuel with the same specifications was used for both on and off-highway uses. The petroleum industry had a single distribution system for that fuel. In 1993, EPA changed the standards to require that all on-highway fuel contain less sulfur - 500 parts per million ("ppm"). The marketing sector of the industry invested millions of dollars to create an entirely new infrastructure to meet the requirement. As a result, we currently have two systems: (1) one for home heating oil and other off-highway uses, and (2) one for on-highway fuel.

## II Proposal

The new rule has not been formally proposed; however, the Agency has discussed it in a Federal Register Notice. It would require marketers, such as our company, to sell a very low sulfur diesel fuel (30 ppm) beginning 2004 to light-duty diesel vehicles and to continue selling the current low sulfur diesel fuel (500 ppm) to heavy duty vehicles. We would continue marketing two on-highway fuels for about three years, and in 2007 start selling the very low

sulfur diesel fuel (30 ppm) to both light duty and heavy duty vehicles. (New standards for heavy duty vehicles, which represents the vast majority of vehicles using diesel fuel, will be implemented in 2007).

### III. Problems with Proposed "Phased-in Approach"


This proposal makes absolutely no sense. It would force us and other independent petroleum marketers to sell three fuels and have three separate distribution systems: (1) home heating oil; (2) very low sulfur fuel for light duty vehicles; and (3) low sulfur fuel for heavy duty vehicles. That means that we would have to make a huge financial investment for a very short interim period and then change back to the current situation of two distribution systems. We clearly could not recover our investment during this short-time frame. Moreover, there are no diesel-powered light duty vehicles on the road today, and most experts doubt that there will be more than a handful by 2004. It is clear that the EPA wants to encourage consumers to buy these vehicles with untested emission control technology in hopes of achieving environmental benefits. However, it is unfair and unacceptable to place the financial burden for this experimental program on the backs of independent petroleum companies that operate most of the diesel fuel distribution system. In addition, if we are forced to assume this responsibility for an interim program, prices of other products such as heating oil will increase.

### IV. Recommendation

Accordingly, we recommend that EPA abandon the idea of an interim or phased-in program. Instead, it should establish a very low sulfur standard for heavy duty vehicles and apply that standard for all on-highway vehicles at the same time. By waiting until 2007, when new requirements for heavy duty vehicles will become effective, independent petroleum marketers will be able to maintain a single distribution system for on-highway diesel fuel. Moreover, there will be very little harm to the environment because there will be very few light duty diesel-powered vehicles on the road before then. Colonial Group, Inc. does not oppose reducing sulfur in diesel fuel, but EPA should implement the program in a reasonable manner designed to minimize the financial burdens that will be imposed on the independent sector of the petroleum industry.

Thank you very much for your help on this important matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. Demere", with a stylized flourish at the end.

Robert H. Demere, Jr.  
President



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 4 2000

OFFICE OF  
AIR AND RADIATION

The Honorable Jack Kingston  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Kingston:

Thank you for your letter of October 29, 1999, on behalf of Colonial Group, Inc., regarding the Environmental Protection Agency's (EPA) plans to issue new rules for diesel fuel. Your constituent expressed concern about a possible way that diesel fuel standards could be implemented – that is, by phasing-in a second grade of highway diesel fuel (with a lower sulfur content) over time. Colonial Group recommends that EPA abandon the idea of a phased-in program and, instead, establish a very low sulfur standard for all highway vehicles at the same time.

EPA is still developing its proposal for diesel fuel controls and, thus, has not reached final decisions. I can assure you, however, that we have spent a considerable amount of time examining the issues raised by your constituent, including evaluating the potential impacts of a phased-in program on all parties of the fuel distribution system. We are evaluating several options for implementing a diesel fuel program, including an option that would change over the entire highway fuel pool in the same time frame, as your constituent suggests, to avoid the need for distributors and retailers to carry an additional grade of diesel fuel. We also have had an extensive dialogue with many businesses and trade associations within the diesel distribution and retail industry, as well as refiners, to seek their input on various approaches. We plan to design a program that minimizes burden on all regulated entities as much as possible when we issue our new heavy-duty engine standards along with the necessary fuel changes.

We intend to publish a proposal in the near future and invite Colonial Group to formally comment on our specific proposal at that time. We will keep you up to date on the progress of this proposal. Should you have further questions, please contact me, or Chet France, Director of the Engine Programs Division, at (734) 214-4303. You may also look for updates by checking the EPA Office of Mobile Sources web page at <http://www.epa.gov/oms>.

Sincerely,

*for Elizabeth Craig*  
Robert Perciasepe  
Assistant Administrator

T.Wysor:df:EPCD:214-4295:12/21/99:wpd:Control No. AL-9902637  
Reviewed by:MHERZ:564-1682:6401-A:12/21/99:G:\CONTROLS\AL9902637.AL

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX

AL-9901710



**Congress of the United States**  
**House of Representatives**

July 26, 1999

**Committee On Appropriations**

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

Mr. John Reeder  
Environmental Protection Agency  
8th Floor, West Tower/401 M St., SW  
Washington DC 20460

Dear Mr. Reeder:

One of my constituents, \_\_\_\_\_ has contacted me regarding a matter in which I believe you could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the concerns raised by my constituent. I feel that some interesting points are made in this communication, and I am requesting your insight into the situation to assist me in my response.

The contact person on my staff for this matter is David Schwarz. He can be reached at (202) 225-5831.

Thank you in advance for your assistance in this matter.

Sincerely,

Jack Kingston  
Member of Congress

JK:ds

Back EPA

AUG 20 1998

AUG 15 1998

SAFE FOOD

August 6, 1998

RESPECTFULLY REFERRED  
NOT ACKNOWLEDGED

Cynthia McKinney  
124 Cannon House Office Building  
Washington, DC 20515

Dear Ms. McKinney:

As an active farmer in Georgia, I am writing to express my concern regarding EPA's implementation of the Food Quality Protection Act. I once was a supporter of the FQPA because I shared EPA's view that ensuring protection for infants and children, and making risk determinations and regulatory decisions based on sound science are worthy and compatible policy objectives. Unfortunately, recent evidence suggests that EPA no longer shares an equal commitment to both objectives.

It is perceived that EPA has already determined certain pesticide tolerances must be revoked. It appears such revocations would be proposed without the benefit of proper use of "reliable and available" information, as provided by law. These initial decisions seem to be driven more by a strict interpretation of the legal language than by thorough scientific evaluation. This interpretation will establish precedents that will determine the outcome of future tolerance assessments, and registrations for years to come. Furthermore, the timeframe and manner in which the decisions are about to be made threaten to disrupt established Integrated Pest Management and pest resistance programs. These decisions will create grave uncertainties for U.S. food producers and processors regarding this growing season and beyond.

On behalf of the U.S. food supply, I urge you to take these thoughts into consideration. We look forward to a productive dialogue with the Agency on these concerns.

Sincerely,

Exp-4

Statesboro, Georgia 30458



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP - 3 1999

OFFICE OF  
PREVENTION, PESTICIDES AND  
TOXIC SUBSTANCES

The Honorable Jack Kingston  
U. S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Kingston:

Thank you for your letter of July 26 on behalf of your constituent, Mr. *Exple* concerning the Environmental Protection Agency's (EPA) implementation of the Food Quality Protection Act (FQPA). Your letter has been forwarded to me for response since my office is responsible for implementation activities. EPA is working to ensure FQPA is implemented well in a timely manner to achieve high standards of protection, especially for children, while preserving the strength of our Nation's agriculture and maintaining viable pest control products.

On August 2, EPA announced major steps under this Act to safeguard our families and our children: cancellation agreements and risk reduction strategies to eliminate or significantly reduce risks posed by two organophosphate pesticides, methyl parathion and azinphos methyl. These actions will make our food supply, already one of the safest in the world, safer still. An extensive scientific review of these chemicals showed that the current uses failed to provide the extra measure of protection for children that FQPA requires. In reaching these agreements the Agency has used children - not the average adult - as the benchmark for setting safety.

The Agency has also worked closely with the U.S. Department of Agriculture (USDA) and the agricultural community to ensure that our decisions were based on refined, realistic risk assessments and that they would not disrupt the growing and marketing plans of farmers. Our decisions will be effective next growing season. Under these cancellation agreements growers can continue current allowable uses until the end of the year, and crops legally treated are marketable. EPA and USDA are working together to ensure that farmers have safer alternative pest management tools and approaches. For many crops, safer pesticides already exist. We will continue to work with the agricultural community to ensure a smooth transition to safer, cost-effective pest management tools.

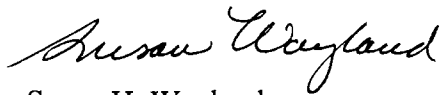
In conducting the reviews of these chemicals, EPA has followed a process which allows for significant public participation. The process was devised in consultation with our Tolerance Reassessment Advisory Committee (TRAC), an advisory group of all affected stakeholders co-chaired by the EPA and USDA. In this process, we have refined our risk assessments based on

sound scientific data and information from our stakeholders. Even with the refinements these two chemicals posed risks above the FQPA safety standard. These actions bring the dietary risk down to an acceptable level. As it has with these chemicals, the Agency is committed to following the established process in conducting reassessments mandated by FQPA for all the remaining organophosphates and other food use pesticides.

At the same time, we have made every effort to ensure that the public is not unduly alarmed by EPA's announcements on August 2. The Agency has stressed that the U.S. food supply is safe and that these actions will only serve to make it safer. I have enclosed several of these documents for your information. We have broadly distributed fact sheets and other information materials, and have made them available to the public on our web site. We have also provided a web address (<http://www.epa.gov/pesticides/announcement8299.htm>) and a telephone number for people to call if they have specific questions (703-305-6127).

Please be assured that EPA remains committed to public health and environmental protection based on sound science and reliable risk assessment. Thank you again for your interest in the implementation of this important new law. Should you have any questions please call me, or have your staff contact Peter Pagano, of the Office of Congressional and Intergovernmental Affairs, at 202-260-8346.

Sincerely yours,



Susan H. Wayland  
Deputy Assistant Administrator

Enclosures

JACK KINGSTON  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX

AL-9901135



Congress of the United States  
House of Representatives

Committee On Appropriations

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

May 6, 1999

Mr. John Reeder  
Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington, DC 20460

Dear Mr. Reeder:

One of my constituents, Mr. James P. Bouton, has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the points raised by Mr. Bouton, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Trish DePriest. She can be reached at (912) 352-0101.

Thank you very much for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

Please reply to:

Congressman Jack Kingston  
6605 Abercorn St., Suite 102  
Savannah, Georgia 31405  
ATTN: Trish DePriest



AB&amp;B GAS, INC.

FACSIMILE

FAX# (912) 355-3056 TEL# (912) 355-3451

- PAGE 1 OF 2 -

April 27, 1999

1202 69th St  
St 31404

Dear Representative Jack Kingston,

I urgently need your help in informing the EPA that it has made a mistake in including flammable substances, such as propane, in its Risk Management Program regulations.

Our company has been a family-owned and operated business safely serving hundred/thousands of customers in Savannah, GA for their propane gas needs for seventeen years.

Beginning June 21, 1999 propane facilities like ours that have tanks with over 2,381 gallons on their premises are required to submit to EPA a Risk Management Plan.

This costly paperwork exercise will cost the propane industry over \$1 billion to comply-a heavy cost with no new safety benefits. In addition to the huge costs, it will severely stunt my ability to grow my business in the future because of the stigma on propane, even though propane is cleaner burning than fuel oil, electricity from coal fired power plants, or diesel.

EPA admits that most of its Risk Management Program duplicates existing requirements. Therefore, this program is nothing more than an expensive paperwork drill.

The RMP rules have been directly responsible for many customers either foregoing a propane standby fuel system altogether or else changing to the use of a standby fuel that is not as efficient or environmentally clean as propane. Of course, propane's competing fuels are not covered by the RMP rules.

Propane is a clean alternative fuel and is specifically listed as an alternative fuel in the Clean Air Act and the Energy Policy Act of 1992. It is the only alternative fuel readily available throughout the United States. And now EPA wants to discourage its use.

---

cleaner environment or increased usage of alternative fuels like propane. Our industry is already heavily regulated for the safe delivery and storage of our clean-burning fuel.

We urge you to enact changes to the Clean Air Act that makes EPA accept compliance with National Fire Protection Association standard 58 as an alternative to RMP compliance.

cleaner environment or increased usage of alternative fuels like propane. Our industry is already heavily regulated for the safe delivery and storage of our clean-burning fuel.

We urge you to enact changes to the Clean Air Act that makes EPA accept compliance with National Fire Protection Association standard 58 as an alternative to RMP compliance.

We appreciate your consideration of our problem and hope we can count on your action in Congress.

Best Regards,

  
James P. Bouton Sr.  
President



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

JUN 1 1999

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

The Honorable Jack Kingston  
6605 Abercorn St., Suite 102  
Savannah, Georgia 31405

Dear Congressman Kingston:

Thank you for your letter concerning the Environmental Protection Agency's plans for implementing section 112(r) of the Clean Air Act (CAA). Administrator Browner asked me to respond to you. Specifically, you raised a concern from your constituent, Mr. James P. Bouton, Sr. that the regulations created an additional and unnecessary burden for people in the propane industry.

Section 112(r) required EPA to issue regulations to prevent chemical accidents. In June 1996, EPA issued final regulations that require facilities handling certain hazardous substances to implement a risk management program and to file a Risk Management Plan (RMP) with EPA by June 21, 1999. This rule applies to a wide variety of facilities that manufacture, store, or use large quantities of toxic and flammable substances, including propane retailers and distributors.

On April 27, the U.S. Court of Appeals granted a stay of the RMP rule as it applies to propane, pending further action by the court. While the Court's stay is in effect, facilities will not have to file RMPs for their propane processes. This is not a final ruling on the case; the litigation between EPA and industry continues. The Court is scheduling the case for oral argument early in its fall 1999 term.

Two important points need to be made. First, if a process at a facility includes propane *and* another listed chemical over that chemical's threshold, the facility still must report that process and consider the impact of the propane on the hazard analysis and accident prevention program for that process. A "process" is one or more tanks (vessels or piping) that are interconnected or located close enough together that a release from one could result in a release from neighboring tanks ("collocation"). Second, propane still is an issue for CAA section 112(r)(7)(1), which establishes a general duty on all stationary sources using, handling or storing extremely hazardous substances to operate safely. Extremely hazardous substances include, but are not limited to, the substances EPA has listed under section 112(r)(3). Under the general duty clause companies have an obligation to identify hazards that may result from their releases using appropriate hazard assessment techniques; to design and maintain a safe facility, taking steps to prevent releases; and to minimize the consequences of accidental releases that do occur, using all industry codes, standards, and good practices.

In addition to the Court's judicial stay, EPA intends to issue an interim administrative stay of the effective date of the RMP rule as it applies to flammable hydrocarbon fuels, including propane, butane, ethane, propylene, and methane (natural gas), stored in quantities no greater than 67,000 pounds (the maximum amount in an 18,000 gallon tank) in a process. EPA will issue a proposed rule shortly to establish this exemption. Based on available information, EPA believes that fuels exempted under this provision would be used in circumstances that do not pose a significant off-site risk. EPA continues to believe that fuels held in excess of this threshold present a risk to American communities. The Court is aware of EPA's proposed action, and consistent with the Court's order, we will notify the Court when we take this action.

EPA believes that the cost of complying with the RMP rule would be relatively low for propane users and retailers. EPA developed the *RMP Guidance for Propane Users and Small Retailers* to help facilities comply with this regulation. The guidance is extremely brief and includes information and analyses that are specific to propane operations. Copies are available on our webpage at "[www.epa.gov/ceppo/pubs](http://www.epa.gov/ceppo/pubs) and from our publications warehouse at (800) 490-9198. If you call our warehouse, mention the EPA publication number 550-B98-022.

EPA also has provided free RMP software which should make preparation and submission of RMP documentation easy. Additionally, we have prepared a model plan that propane users could follow to streamline compliance. Any further questions could be answered quickly by the RMP Hotline at (800) 424-9346.

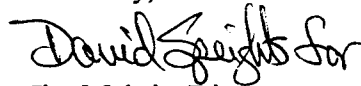
We encourage the safe use of clean-burning fuels, and do not believe that the RMP goal of preventing accidents is inconsistent with the goal of achieving clean air; efforts in both areas should enhance public safety and health. Nothing in the RMP regulations requires facilities to stop or limit their use of propane or any other chemical. Rather, these regulations require sources to identify and control chemical hazards. EPA recognizes that whenever the Agency regulates a substance and sets threshold quantities, there is some incentive for certain facilities to consider alternatives to those substances or to reduce inventories below the threshold. However, EPA notes that most propane distributors generally sell propane to customers who wouldn't be covered by this rule at all.

EPA recognizes that the propane industry, as well as many other facilities that handle hazardous substances, already comply with a variety of standards and regulations that help prevent chemical accidents. In fact, all facilities handling any hazardous substance, including those not covered by the Risk Management Program Rule, have a general duty under the Clean Air Act to operate safely. The Risk Management Program was designed to build on and enhance - but not duplicate - other safety standards and codes such as NFPA Standard 58. In contrast with Section 112(r) of the Clean Air Act, NFPA-58 does not require a hazard assessment, accident prevention plan submission, written maintenance programs, procedures to control change, public availability of information, refresher training for distribution plant operators or mechanics, and other RMP elements. These steps are important to accident prevention.

Firefighters say that the gaps prevent them from adequately preparing for, and responding to, a propane fire. I have enclosed a crosswalk that shows how RMP incorporates, and builds on, NFPA Standard 58. We plan to participate in the National Fire Protection Association (NFPA) Standard 58 Committee to address additional activities that are covered in the Risk Management Program.

I hope this information has been useful. If you have any questions, please contact George Hull at (202) 260-7808.

Sincerely,

A handwritten signature in black ink that reads "David Speight for". The signature is written in a cursive, flowing style.

Jim Makris, Director  
Chemical Emergency Preparedness  
and Prevention Office

Enclosures

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX



**Congress of the United States**  
**House of Representatives**

April 15, 1999

**Committee On Appropriations**

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

Mr. John Reeder  
Environmental Protection Agency  
8th Floor, West Tower/401 M St., SW  
Washington DC 20460

Dear Mr. Reeder:

Two of my constituents, Michael Larson and Stephen Schaller, have contacted me regarding a matter in which I believe you could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the concerns raised by my constituent. I feel that some interesting points are made in this communication, and I am requesting your insight into the situation to assist me in my response.

The contact person on my staff for this matter is David Schwarz. He can be reached at (202) 225-5831.

Thank you in advance for your assistance in this matter.

Sincerely,



Jack Kingston  
Member of Congress

JK:ds



Hwy. 341 & Tank Plant Road  
Jesup, GA 31545  
P.O. Box 1113, Jesup, GA 31598  
(912) 427-7711  
Facsimile (912) 427-7770



March 17, 1999

Congressman Jack Kingston  
1507 Longworth House Bldg.  
Washington, D.C. 20515

Dear Congressman Kingston,

I urgently need your help in informing the EPA that it has made a mistake in including flammable substances, such as propane, in its Risk Management Program regulations.

Our company has a manufacturing plant in Jesup, GA. We employ a number of your constituents.

The EPA's Risk Management Program calls for submission of a detailed risk management plan by June 21, 1999. By erecting regulatory burdens to the continued use of propane, EPA is discouraging the use of a clean-burning fuel. We should be reducing impediments to the use of alternative fuels, not increasing them.

The RMP rules have been directly responsible for many customers either foregoing a propane standby fuel system altogether or else changing to the use of a standby fuel that is not as efficient or environmentally clean as propane. Of course, propane's competing fuels are not covered by the RMP rules.

Propane is a clean alternative fuel and is specifically listed as an alternative fuel in the Clean Air Act and the Energy Policy Act of 1992. It is the only alternative fuel readily available throughout the United States. And now EPA wants to discourage its use. I do not understand how the EPA can encourage the use of propane as a safe and clean alternative engine fuel in one section of the Clean Air Act, and then turn around in another section of the law and regulate it right along with severely toxic chemicals.

With all this in mind, I urge you to join in the effort to change these onerous rules.

Thank you for your time and consideration of these views.

A handwritten signature in dark ink, appearing to read 'Stephen P. Schaller', is written over a horizontal line.

Stephen P. Schaller  
Plant Manager

JPS/ljr



Hwy. 341 & Tank Plant Road  
Jesup, GA 31545  
P.O. Box 1113, Jesup, GA 31598  
(912) 427-7711  
Facsimile (912) 427-7770



March 17, 1999

Congressman Jack Kingston  
1507 Longworth House Bldg.  
Washington, D.C. 20515

Dear Congressman Kingston,

I urgently need your help in informing the EPA that it has made a mistake in including flammable substances, such as propane, in its Risk Management Program regulations.

Our company has a manufacturing plant in Jesup, GA. We employ a number of your constituents.

The EPA's Risk Management Program calls for submission of a detailed risk management plan by June 21, 1999. By erecting regulatory burdens to the continued use of propane, EPA is discouraging the use of a clean-burning fuel. We should be reducing impediments to the use of alternative fuels, not increasing them.

The RMP rules have been directly responsible for many customers either foregoing a propane standby fuel system altogether or else changing to the use of a standby fuel that is not as efficient or environmentally clean as propane. Of course, propane's competing fuels are not covered by the RMP rules.

Propane is a clean alternative fuel and is specifically listed as an alternative fuel in the Clean Air Act and the Energy Policy Act of 1992. It is the only alternative fuel readily available throughout the United States. And now EPA wants to discourage its use. I do not understand how the EPA can encourage the use of propane as a safe and clean alternative engine fuel in one section of the Clean Air Act, and then turn around in another section of the law and regulate it right along with severely toxic chemicals.

With all this in mind, I urge you to join in the effort to change these onerous rules.

Thank you for your time and consideration of these views.

Michael L. Larson  
Director of Operations

JPS/ljr





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAY 14 1999

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

The Honorable Jack Kingston  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Kingston:

Thank you for your letter concerning the Environmental Protection Agency's plans for implementing section 112(r) of the Clean Air Act (CAA). Administrator Browner asked me to respond to you. Specifically, you raised a concern that the regulations created an additional and unnecessary burden for people in the propane industry.

Section 112(r) required EPA to issue regulations to prevent chemical accidents. In June 1996, EPA issued final regulations that require facilities handling certain hazardous substances to implement a risk management program and to file a Risk Management Plan (RMP) with EPA by June 21, 1999. This rule applies to a wide variety of facilities that manufacture, store, or use large quantities of toxic and flammable substances, including propane retailers and distributors.

On April 27, the U.S. Court of Appeals granted a stay of the RMP rule as it applies to propane, pending further action by the court. While the Court's stay is in effect, facilities will not have to file RMPs for their propane processes. This is not a final ruling on the case; the litigation between EPA and industry continues. The Court is scheduling the case for oral argument early in its fall 1999 term.

Two important points need to be made. First, if a process at a facility includes propane *and* another listed chemical over that chemical's threshold, the facility still must report that process and consider the impact of the propane on the hazard analysis and accident prevention program for that process. A "process" is one or more tanks (vessels or piping) that are interconnected or located close enough together that a release from one could result in a release from neighboring tanks ("collocation"). Second, propane still is an issue for CAA section 112(r)(7)(1), which establishes a general duty on all stationary sources using, handling or storing extremely hazardous substances to operate safely. Extremely hazardous substances include, but are not limited to, the substances EPA has listed under section 112(r)(3). Under the general duty clause companies have an obligation to identify hazards that may result from their releases using appropriate hazard assessment techniques; to design and maintain a safe facility, taking steps to prevent releases; and to minimize the consequences of accidental releases that do occur, using all industry codes, standards, and good practices.

In addition to the Court's judicial stay, EPA intends to issue an interim administrative stay of the effective date of the RMP rule as it applies to flammable hydrocarbon fuels, including propane, butane, ethane, propylene, and methane (natural gas), stored in quantities no greater than 67,000 pounds (the maximum amount in an 18,000 gallon tank) in a process. EPA will issue a proposed rule shortly to establish this exemption. Based on available information, EPA believes that fuels exempted under this provision would be used in circumstances that do not pose a significant off-site risk. EPA continues to believe that fuels held in excess of this threshold present a risk to American communities. The Court is aware of EPA's proposed action, and consistent with the Court's order, we will notify the Court when we take this action.

EPA believes that the cost of complying with the RMP rule would be relatively low for propane users and retailers. EPA developed the *RMP Guidance for Propane Users and Small Retailers* to help facilities comply with this regulation. The guidance is extremely brief and includes information and analyses that are specific to propane operations. Copies are available on our webpage at "[www.epa.gov/ceppo/pubs](http://www.epa.gov/ceppo/pubs)" and from our publications warehouse at (800) 490-9198. If you call our warehouse, mention the EPA publication number 550-B98-022.

EPA also has provided free RMP software which should make preparation and submission of RMP documentation easy. Additionally, we have prepared a model plan that propane users could follow to streamline compliance. Any further questions could be answered quickly by the RMP Hotline at (800) 424-9346.

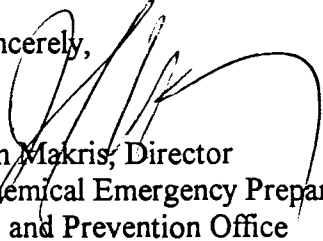
We encourage the safe use of clean-burning fuels, and do not believe that the RMP goal of preventing accidents is inconsistent with the goal of achieving clean air; efforts in both areas should enhance public safety and health. Nothing in the RMP regulations requires facilities to stop or limit their use of propane or any other chemical. Rather, these regulations require sources to identify and control chemical hazards. EPA recognizes that whenever the Agency regulates a substance and sets threshold quantities, there is some incentive for certain facilities to consider alternatives to those substances or to reduce inventories below the threshold. However, EPA notes that most propane distributors generally sell propane to customers who wouldn't be covered by this rule at all.

EPA recognizes that the propane industry, as well as many other facilities that handle hazardous substances, already comply with a variety of standards and regulations that help prevent chemical accidents. In fact, all facilities handling any hazardous substance, including those not covered by the Risk Management Program Rule, have a general duty under the Clean Air Act to operate safely. The Risk Management Program was designed to build on and enhance - but not duplicate - other safety standards and codes such as NFPA Standard 58. In contrast with Section 112(r) of the Clean Air Act, NFPA-58 does not require a hazard assessment, accident prevention plan submission, written maintenance programs, procedures to control change, public availability of information, refresher training for distribution plant operators or mechanics, and other RMP elements. These steps are important to accident prevention.

Firefighters say that the gaps prevent them from adequately preparing for, and responding to, a propane fire. I have enclosed a crosswalk that shows how RMP incorporates, and builds on, NFPA Standard 58. We plan to participate in the National Fire Protection Association (NFPA) Standard 58 Committee to address additional activities that are covered in the Risk Management Program.

I hope this information has been useful. If you have any questions, please contact George Hull at (202) 260-7808.

Sincerely,



Jim Makris, Director  
Chemical Emergency Preparedness  
and Prevention Office

Enclosures

**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX



**Congress of the United States**  
**House of Representatives**

March 2, 1999

**Committee On Appropriations**

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

Ms. Julie Anderson  
Office of Congressional Liason  
West Tower, Room 835, A-103  
Washington DC 20460

Dear Ms. Anderson:

One of my constituents, Ray Snellgrove, has contacted me regarding a matter in which I believe you could be helpful. Therefore, the enclosed communication is submitted for your review.

I would very much appreciate your responding to the concerns raised by my constituent. I feel that some interesting points are made in this communication, and I am requesting your insight into the situation to assist me in my response.

The contact person on my staff for this matter is David Schwarz. He can be reached at (202) 225-5831.

Thank you in advance for your assistance in this matter.

Sincerely,

A handwritten signature in black ink that reads "Jack".

Jack Kingston  
Member of Congress

JK:ds

PETROLEUM PRODUCTS  
LP — GAS

# CLAXTON OIL COMPANY

410 E. MAIN STREET  
P.O. BOX 416  
CLAXTON, GEORGIA 30417  
PHONE 739-1303

TIRES  
BATTERIES

back  
EPA  
FEB 1 1999

February 9, 1999

The Honorable Jack Kingston  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Kingston,

I am writing to ask you to bring some common sense to an EPA risk management regulation that shows how far removed agencies are from the world of the small business person. I work for Claxton Oil Company which has been in business since 1939, employing twenty people, and serving more than 3,000 customers. Our customers use propane in a variety of ways in their homes, businesses, and farms.

As a result of the Clean Air Act Amendments that were signed into law in 1990, my company and commercial customers are expected to submit to EPA a risk management plan by June 21, 1999. The rules under this program will penalize consumers without any corresponding safety benefits.

By erecting regulatory burdens to the continued use of propane, EPA is discouraging the use of a clean-burning fuel. We should be reducing impediments to the use of alternative fuels, not increasing them. This costly paperwork will cost our industry more than \$1 billion dollars, forcing us to pass this cost on to consumers. EPA is misguided if it thinks the costly imposition of a risk management plan will increase safety. In fact, this federal mandate encourages propane users to get in under the storage threshold of 2,381 gallons by reducing the numbers of gallons delivered per trip. This will increase the number of times my trucks must make deliveries during the winter season when hazardous road conditions apply, increasing the risks of traffic accidents.

As your constituent, I am asking for your assistance in contacting the EPA or anyone else in Congress to allow the existing NFPA regulations to stand in lieu of the Risk Management Plan.

I appreciate your consideration of our problem and hope I can count on your action in Congress.

Sincerely,



Ray Snellgrove  
Manager, LP Division

RS/lby



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 2 1999

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

The Honorable Jack Kingston  
U.S. House of Representatives  
Washington, D.C. 20510

Dear Congressman Kingston:

Thank you for your letter concerning the Environmental Protection Agency's plans for implementing section 112(r) of the Clean Air Act (CAA). Administrator Browner asked me to respond to you. Specifically, you raised a concern from your constituent, Mr. Ray Snellgrove, that the regulations created an additional and unnecessary burden for people in the propane industry.

As you know, section 112(r) requires EPA to list at least 100 substances that when accidentally released are known to cause or may reasonably be anticipated to cause death, injury or serious adverse effects to human health or the environment. EPA must consider the following criteria when it decides whether to list a substance under section 112(r): the severity of any acute adverse health effects associated with accidental releases of the substance; the likelihood of accidental releases of the substance; and the potential magnitude of human exposure to accidental releases of the substance.

The statutory criteria do not distinguish between substances based on type (e.g., toxic, flammable) or use (e.g., raw material, fuel). The legislative history suggests that flammable substances, as well as toxic and other substances, that meet the statutory criteria for listing should be regulated under section 112(r). EPA regulated flammable substances meeting the highest hazard rating of the National Fire Protection Association (NFPA) - Level 4 because substances, such as propane, meeting this rating pose a substantial risk of vapor cloud explosion if accidentally released in large enough (i.e., threshold) quantities.

In light of the statutory criteria for listing substances and the intrinsic hazard posed by the toxic and flammable substances on the list, EPA believes it appropriately listed propane. Risk management planning by sources handling more than a threshold quantity of these substances will generally help protect the nearby public and environment from the intrinsic hazard they pose.

EPA developed the Risk Management Program Rule with three program levels to reflect different levels of risk and levels of effort needed to prevent accidents. Program 1 is a minimal set of requirements for processes that have a very low risk of affecting the public in the event of an accident. Program 2 is a streamlined set of requirements for processes not eligible for Program 1 and Program 3. Program 3 applies to processes that are either subject to the Process Safety Management (PSM) Standard of the Occupational Safety and Health Administration or that are in certain industry sectors such as some chemical manufacturers, all refineries, and all pulp mills.

The expected cost of complying with the rule for small-volume users should be low, in part because EPA has issued streamlined guidance for such users that simplifies the steps they need to take to comply. EPA has also provided free RMP software which should make preparation and submission of RMP documentation easy. We also have published guidance to help facilities determine if their propane tanks are located close enough together for a vapor cloud explosion to occur. We expect that many businesses with small storage tanks will not have a reporting requirement for propane because their tanks are not located within close proximity of one another.

Recently, an accidental propane release and fire at a facility near Des Moines, Iowa, resulted in the evacuation of 10,000 nearby residents and the closure of a major interstate transportation route. At least seven other major accidents occurred at propane facilities in 1998. In total, these accidents involved at least 4 deaths, 22 injuries, many thousands of dollars of property damage, community evacuations, and other offsite impacts. The hazard associated with propane and other highly flammable substances is not an abstract or hypothetical concern. Accidents at propane facilities happen every year, and they often involve causes that are directly related to poor hazard control. The core elements of process safety management required by the RMP rule directly address such causes. Therefore, EPA expects that this regulation will ultimately reduce the number of accidents at propane facilities.

Mr. Snellgrove raised concern about more frequent propane deliveries. Similar concerns were raised prior to the implementation of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), which requires facilities having more than a threshold quantity of certain hazardous substances to report chemical inventories and accidental releases. However, data from both DOT's Hazardous Materials Incident Reporting System and EPA's Emergency Release Notification System indicate that the number of serious transportation incidents has not increased since 1987 (the first reporting year for EPCRA). Therefore, to the extent that the RMP rule exerts similar influences on industry, EPA expects no significant increase in transportation-related accidents following its implementation.


EPA encourages the safe use of clean-burning fuels, and does not believe that the RMP goal of preventing accidents is inconsistent with the goal of achieving clean air; efforts in both areas should enhance public safety and health. Nothing in the RMP regulations requires facilities to stop or limit their use of propane or any other chemical. Rather, these regulations require sources to identify and control chemical hazards. EPA recognizes that whenever the Agency regulates a substance and sets threshold quantities, there is some incentive for certain facilities to consider alternatives to those substances or to reduce inventories below the threshold. However, EPA notes that most propane distributors generally sell propane to customers who won't be covered by this rule at all (because they don't have 10,000 pounds of propane in a process). These facilities will have no incentive to reduce inventories or switch fuels.

Also, start-up costs for alternative fuel systems are likely to be much greater than the cost to implement the RMP regulation. Facilities also must consider that alternatives to propane, such as diesel fuel and fuel oil, are generally regulated by EPA and other federal agencies under this and other statutes. For example, the Clean Water Act requires facilities holding threshold amounts of fuel oil or diesel to prepare a spill prevention plan; natural gas is regulated by DOT when in pipeline transportation, and by EPA (under the RMP rule) when stored at a stationary source.

EPA recognizes that the propane industry, as well as many other facilities that handle hazardous substances, already comply with a variety of standards and regulations that help prevent chemical accidents. In fact, all facilities handling any hazardous substance, including those not covered by the Risk Management Program Rule, have a general duty under the Clean Air Act to operate safely. The Risk Management Program was designed to build on and enhance - but not duplicate - other safety standards and codes such as National Fire Protection Association (NFPA) Standard 58. In contrast with Section 112(r) of the Clean Air Act, NFPA-58 does not contain requirements for written maintenance programs, or procedures to control change, or refresher training for distribution plant operators or mechanics. Firefighters say that these gaps prevent them from adequately preparing for, and responding to, a propane fire. I have enclosed a crosswalk that includes more information on how RMP incorporates, and builds on, NFPA Standard 58.

I hope this information addresses your concerns. If you have any questions or need additional information, please contact George Hull at (202) 260-7808.

Sincerely,

  
Jim Makris, Director  
Chemical Emergency Preparedness  
and Prevention Office

Enclosure



**JACK KINGSTON**  
1st District, Georgia

WASHINGTON OFFICE  
1507 Longworth Building  
Washington, DC 20515  
(202) 225-5831  
(202) 226-2269 FAX

BRUNSWICK OFFICE  
Federal Building, Room 304  
805 Gloucester Street  
Brunswick, GA 31520  
(912) 265-9010  
(912) 265-9013 FAX

AL- 9901034



**Congress of the United States**  
**House of Representatives**

April 21, 1999

**Committee On Appropriations**

SAVANNAH OFFICE  
The Enterprise Building  
6605 Abercorn St., Suite 102  
Savannah, GA 31405  
(912) 352-0101  
(912) 352-0105 FAX

STATESBORO OFFICE  
Federal Building, Room 220  
Statesboro, GA 30458  
(912) 489-8797  
(912) 764-8549 FAX

Director, Congressional Affairs  
Environmental Protection Agency  
8th Floor, West Tower  
401 M Street, S.W.  
Washington DC 20460

Sir/Madam

One of my constituents, Mr. Daniel Parshely, has contacted me regarding a matter in which I believe your agency could be helpful. Therefore, the enclosed communication is submitted for your review.

I would appreciate your responding to the points raised by my constituent, and providing any assistance available under the applicable laws and regulations.

The contact person on my staff for this case is Russ Graham. He can be reached at (912) 265-9010.

Thank you for your consideration and for advising me of any action you take in this matter.

Sincerely,

Jack Kingston  
Member of Congress

Please reply to:  
Russ Graham, Brunswick Director  
Congressman Jack Kingston  
805 Gloucester St., U S Federal Bldg.  
Brunswick, GA 31520



Glynn  
Environmental  
Coalition, Inc.  
Post Office Box 2443  
Brunswick, Georgia 31521

April 5, 1999

Honorable Jack Kingston  
United States Congress  
1229 Longworth House Office Building  
Washington, D.C. 20515

Re: Compliance with the Record of Decision at the Hercules 009 Landfill Superfund Site in Brunswick, Glynn County, Georgia.

Dear Congressman Kingston,

The Glynn Environmental Coalition (Coalition) requests you contact the Attorney General at the Environmental Enforcement Division of the United States Department of Justice concerning compliance by the U.S. Environmental Protection Agency (EPA) and Hercules, Incorporated, with the Consent Decree in *United States v. Hercules, Incorporated*, Civil Action Number 293-132 (DOJ Ref. #90-11-3-811A).

The Coalition contends that on October 2, 1996, representatives of Hercules Incorporated and U. S. Environmental Protection Agency (EPA) did meet and agree to make fundamental changes to the Record of Decision (ROD) for the Hercules 009 Landfill Superfund Site in violation of 40 CFR 300.435 (Attachment A). The Coalition and our community's Technical Advisor commented extensively on the changes made to the ROD. All appeals to the EPA to address comments and concerns over violation of the law have been unsuccessful (Attachment B).

Most recently, the EPA has proposed a non-EPA mediator/facilitator to reach an agreement with the Coalition on violations of the law by the EPA. The Coalition is concerned over the EPA proposal to address violations of the law by way of a mediator/facilitator. First, a mediator/facilitator is an improper vehicle to address violations of the law; and second, the offer by the EPA is insincere given the EPA's two-year history of ignoring the community, refusal to reply, and failure to follow the law when violations are brought to their attention.

The Coalition requests that your office contact the Environmental Enforcement Division of the Department of Justice and arrange a meeting with the Coalition as soon as possible.

Thank you for your attention to this matter.

Sincerely,

Daniel Parshley

CC: Dr. R. Kevin Pegg

Enclosures

**Attachment B**

**Efforts of the Glynn Environmental Coalition to Have the U.S.  
Environmental Protection Agency Reply to Documented  
Fundamental Changes to the Record of Decision for the  
Hercules 009 Landfill Superfund Site, Brunswick,  
Glynn County, Georgia.**

## **Efforts of the Glynn Environmental Coalition to Have the U.S. EPA Reply to Documented Fundamental Changes to the Record of Decision for the Hercules 009 Landfill Superfund Site, Brunswick, Glynn County, Georgia.**

### **Introduction**

The Glynn Environmental Coalition (Coalition) has enjoyed very good community relations and information sharing with the U.S. Environmental Protection Agency (EPA) during the Pre-Record of Decision (ROD) meetings, Post-ROD Treatability Study (TS) and Draft Remedial Design (RD) phases for the Hercules 009 Landfill Superfund Site (Site). Comments and questions from our community were generated and received by the EPA during the Coalition management and dissemination of information generated by an EPA Technical Assistance Grant (TAG). Responsiveness of the EPA Region IV Remedial Branch remained good until May 1997. Coalition efforts to have the EPA answer community comments, questions, and concerns on fundamental changes to the ROD made during the Pre-Final RD were fruitless. Questions remain, and still remain, unanswered while the EPA assures the community the ROD specified Performance Standards will be followed. Further, efforts to obtain Site information and data degenerated into evasive answers and out-right refusal of the EPA to answer questions from the Coalition, TAG Advisor, and community. When information under the Freedom of Information Act was requested regarding the basis for changes, the EPA stated it did not exist. Interestingly, the Coalition made a great effort to obtain answers prior to the finalization of the RD and implementation of the Remedial Action (RA). The Coalition views the timing of the refusal to reply, and the withholding of information by the EPA as calculated to circumvent community relations requirements pursuant to 40 C.F.R. §300.435(c)(2)(ii).

The following is a chronology of Coalition efforts to have questions, comments, and concerns answered about fundamental and significant changes to the ROD made in the RD/RA.

April 1997 - TAG Technical Assistance Report, 009 Preliminary Design Report Indicates Only Sludge

Treatment, By Dr. R. Kevin Pegg, TAG Technical Advisor.

May 2, 1997 - Written comments on Prefinal RD, from Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition, Inc.; to Alan Yarbrough, RPM, EPA Region IV.

May 27, 1998 - Written comments on Pre-Final RD, from Dr. R. Kevin Pegg, TAG Technical Advisor; to Alan Yarbrough, RPM, EPA Region IV.

June 1997 - TAG Technical Assistance Report, 009 Prefinal Remedial Design Results in an Unpredictable Cleanup, By Dr. R. Kevin Pegg, TAG Technical Advisor.

January 28, 1998 - Receive Remedial Action Work Plan.

March 1998 - TAG Technical Assistance Report, 009 Final Remedial Design Plan Comments, By Dr. R. Kevin Pegg, TAG Technical Advisor.

April 5, 1998 - Request for meeting with U.S. Department of Justice Environmental Enforcement Division regarding Non-Compliance with the ROD, Hercules 009 Landfill Superfund Site, letter from Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition; to Congressman Kingston.

April 27, 1998 - EPA and Hercules Public "Information Fair".

April 27, 1998 - Conference Call: EPA, Coalition, TAG Technical Advisor, facilitated by Congressman Kingston's office.

April 30, 1998 - Phone call, communication regarding changes to the ROD at the Hercules 009 Landfill Superfund Site, Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition, Inc.; and, Curt Fehn, Chief, South Superfund Management Branch, EPA Region IV.

April 1998 - TAG Technical Assistance Report, 009 Remedial Design: Questions and Responses, By Dr. R. Kevin Pegg, TAG Technical Advisor.

May 14, 1998 - EPA approach to the remediation at the Hercules 009 Landfill Site; EPA Response to

April 30, 1998, letter from Curt Fehn, to Daniel Parshley.

May 22, 1998 - Compliance with the Record of Decision at the Hercules 009 Landfill Superfund Site, letter from Daniel Parshley TAG Project Manager; to Congressman Kingston.

May 26, 1998 - Compliance with the Record of Decision at the Hercules 009 Landfill Superfund Site, letter from Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition; to Congressman Kingston.

June 16, 1998 - Meeting at Congressman Kingston's office with the EPA, TAG Technical Advisor, and Coalition; compliance with the ROD, Hercules 009 Superfund Site.

June 18, 1998 - Questions concerning the changes to the Record of Decision at the Hercules 009 Landfill Superfund Site, letter from Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition; to Congressman Kingston.

June 18, 1998 - Request for information that formed the basis for the changes to the Record of Decision at the Hercules 009 Landfill Superfund Site under the Freedom of Information Act, letter from Daniel Parshley, to Congressman Kingston. (July 21, 1998, EPA reply: no information exists. August 4, 1998, EPA Reply: no information exists.)

July 8, 1998 - Request for EPA Region IV response to Coalition letters, letter from Congressman Kingston, to Marilyn S. Allen, Congressional Affairs, EPA Region IV.

July 9, 1998 - Response from Department of Justice, will meet if meeting with EPA is unsuccessful, Letter from Lois J. Schiffer, Department of Justice, to Congress Kingston.

August 4, 1998 - Response to June 18, 1998, Freedom of Information Act request - no records responsive to your request, Letter from Richard D. Green, Waste Management Division, EPA Region IV; to Daniel Parshley, Glynn Environmental Coalition.

August 4, 1998 - Request for EPA Region IV to address Glynn Environmental Coalition contentions there have been changes to the Hercules 009 Site Record of Decision, letter from Congressman Kingston, to Marilyn S. Allen, Congressional Affairs, EPA Region IV.

August 14, 1998 - Appeal of denial of information requested under the Freedom of Information Act.

August 17, 1998 - Response to June 18, 1998, Freedom of Information Act request - no records responsive to your request, letter from Russell L. Wright, Jr., Science and Ecosystems Support Division, EPA Region IV; to Daniel Parshley, Glynn Environmental Coalition.

August 25, 1998 - Appeal of denial of information requested under the Freedom of Information Act.

August 28, 1998 - Response to Congress Kingston's July 9, 1998, request to respond to concerns of the Glynn Environmental Coalition, letter from John H. Hankinson, Regional Director, EPA Region IV; to Congressman Kingston.

August 28, 1998 - Response to Congress Kingston's August 4, 1998, request to respond to concerns of the Glynn Environmental Coalition, letter from John H. Hankinson, Regional Director, EPA Region IV; to Congressman Kingston.

September 1, 1998 - Appeal for information denied, letter from James A. Shrybman, Finance and Operations Division, U.S. EPA Washington D.C.

September 10, 1998 - Meeting with Tim Fields, EPA Headquarters, and Brunswick community members.

September 11, 1998 - Request for U.S. Department of Justice Environmental Enforcement Division to respond to points raised by the Glynn Environmental Coalition; letter from Congressman Kingston, to Lois J. Schiffer, U.S. Department of Justice Environmental Enforcement Division.

September 15, 1998 - U. S. Environmental Protection Agency Region IV refusal to answer questions and comments on Hercules 009 Site ROD; Letter from Daniel Parshley, Glynn Environmental Coalition; to Tim Fields, U. S. Environmental Protection Agency.

September 29, 1998 - Request for Amendment of the Record of Decision for the Hercules 009 Landfill Superfund Site, and an Ombudsman for Community Relations, document from Glynn Environmental Coalition, to Tim Fields, U.S. EPA Headquarters.<sup>1</sup>

October 21, 1998 - Request for reply on intent of EPA Headquarters on the Coalition's September 29, 1998, request for amendment of the Hercules 009 ROD and ombudsman; E-mail from Daniel Parshley, Glynn Environmental Coalition; to Tim Fields, U. S. Environmental Protection Agency.

October 22, 1998 - Reply to 10-21-98 Coalition E-mail, reply should be signed by Mr. Fields tomorrow; E-mail from Patricia Tidwell, U. S. Environmental Protection Agency to Daniel Parshley, Glynn Environmental Coalition.

October 22, 1998 - U. S. Environmental Protection Agency response the Coalition's September 29, 1998, request for amendment of the Hercules 009 ROD and ombudsman to be answered by November 30, 1998; Letter from John Cunningham, U. S. Environmental Protection Agency; to Daniel Parshley, Glynn Environmental Coalition.

October 30, 1998 - ROD is the guidance document for the Hercules 009 Site; Letter from Tim Fields, U. S. Environmental Protection Agency; to Daniel Parshley, Glynn Environmental Coalition.

December 2, 1998 - U. S. Environmental Protection Agency response the Coalition's September 29, 1998, request for amendment of the Hercules 009 ROD and ombudsman is still waiting for Mr. Fields signature; E-mail from Joan Fisk, U. S. Environmental Protection Agency; to Daniel Parshley, Glynn Environmental Coalition.

---

<sup>1</sup>



December 11, 1998 - Request for response to September 29, 1998, request for amendment of the Hercules 009 ROD and ombudsman; E-mail from Daniel Parshley, Glynn Environmental Coalition; to Tim Fields, U. S. Environmental Protection Agency.

December 11, 1998 - Coalition concerned over U. S. Environmental Protection Agency unresponsiveness to September 29, 1998, request for amendment of the Hercules 009 ROD and ombudsman; Letter from Daniel Parshley, Glynn Environmental Coalition; to Tim Fields, U. S. Environmental Protection Agency.

December 16, 1998 - U. S. Environmental Protection Agency is concerned that reply has not been sent; E-mail from Joan Fisk, U. S. Environmental Protection Agency; to Daniel Parshley, Glynn Environmental Coalition.

December 16, 1998 - E-mail from Daniel Parshley, Glynn Environmental Coalition; to Joan Fisk, U. S. Environmental Protection Agency.

January 13, 1999 - Request for response to September 29, 1998, request for amendment of the Hercules 009 ROD and ombudsman; E-mail from Daniel Parshley, Glynn Environmental Coalition; to Tim Fields, U. S. Environmental Protection Agency.

January 22, 1999 - Request for response to September 29, 1998, request for amendment of the Hercules 009 ROD and ombudsman; E-mail from Daniel Parshley, Glynn Environmental Coalition; to Tim Fields, U. S. Environmental Protection Agency.

January 22, 1999 - U.S. Environmental Protection Agency will get a response to you next week; E-mail from Tim Fields, U. S. Environmental Protection Agency; to Daniel Parshley, Glynn Environmental Coalition.

February 3-4, 1999 - Refusal of Ombudsman to meet; E-mail to Kathleen Curry, U.S. Environmental Protection Agency region IV; to Daniel Parshley, Glynn Environmental Coalition.

March 8, 1999 - Still waiting for the response to September 29, 1998, request for amendment of the Hercules 009 ROD and ombudsman; E-mail from Daniel Parshley, Glynn Environmental Coalition; to Tim Fields, U. S. Environmental Protection Agency.

## **Discussion**

Early in the development of the RD, the Coalition and our TAG technical advisor noted fundamental changes to the ROD.<sup>2, 3, 4, 5, 6, 7</sup> Verbal assurances by the EPA that the ROD specified

---

<sup>2</sup> Technical Assistance Report, 009 Preliminary Design Report Indicates Only Sludge Treatment. By Dr. R. Kevin

Performance Standards would be followed was accepted as truthful by the Coalition. In retrospect, as early as October 2, 1996, the EPA and Hercules agreed in a private meeting to make fundamental changes to the remedy selected in the ROD.<sup>8, 9</sup> The Coalition is perplexed as to why the changes were made when the EPA concurred with the findings of the Treatability Study that In-Situ treatment would meet the Performance Standards specified in the ROD.<sup>10</sup> Furthermore, the EPA reaffirmed their position that there is no justification for changing the Performance Standards and source control specified in the ROD.<sup>11</sup>

The final Remedial Design was received in February 1998. Questions, comments, and concerns identified by the Coalition and TAG technical advisor were not answered. In conversations with the EPA, it became clear that there was no intent to answer them. The typical response in conversations with the EPA Remedial Project Manager (RPM) was that these are only technical issues that we have previously addressed. The written EPA response, March 5, 1998, made it clear that the EPA had made fundamental changes to the ROD, contrary to their previous assertions that the remedy selected in the ROD would be the guidance document for the Site.<sup>12</sup> Subsequently, the Coalition sought, in writing, answers to our previous questions, comments, and concerns, and documents that formed the basis for the changes to the ROD through our Congressional representative due to the extended period of

---

Pegg, TAG Technical Advisor. April 1997.

<sup>3</sup> Letter from Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition; to Alan Yarbrough, Remedial Project Manager, EPA Region IV. May 2, 1997.

<sup>4</sup> Letter from Dr. R. Kevin Pegg, TAG Technical Advisor; to Alan Yarbrough, Remedial Project Manager, EPA Region IV. May 27, 1997.

<sup>5</sup> Technical Assistance Report, 009 Remedial Design Results in an Unpredictable Cleanup. By Dr. R. Kevin Pegg, TAG Technical Advisor. June 1997.

<sup>6</sup> Technical Assistance Report, 009 Final Design Plan Comments. By Dr. R. Kevin Pegg, TAG Technical Advisor. March 1998.

<sup>7</sup> Technical Assistance Report, 009 Remedial Design: Questions and Responses. By Dr. R. Kevin Pegg, TAG Technical Advisor. April 1998.

<sup>8</sup> Letter from Alan Yarbrough, Remedial Project Manager, EPA Region IV; to Timothy D. Hassett, Senior Environmental Engineer, Hercules Incorporated. October 4, 1996.

<sup>9</sup> Letter from Steve W. Webb, Project Manager, RMT Inc., To Alan Yarbrough, Remedial Project Manager, EPA Region IV. October 24, 1996.

<sup>10</sup> Letter from Alan Yarbrough, Remedial Project Manager, EPA Region IV; to Timothy D. Hassett, Senior Environmental Engineer, Hercules Incorporated. April 16, 1996.

<sup>11</sup> Letter from Alan Yarbrough, Remedial Project Manager, EPA Region IV; to Mr. Timothy D. Hassett, Senior Environmental Engineer, Hercules Incorporated. May 22, 1996.

<sup>12</sup> Letter from Annie Godfrey, Remedial Project Manager, EPA Region IV; to Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition, Inc. March 5, 1998.

unresponsiveness by the EPA.<sup>13</sup>

The EPA and Hercules "Information Fair" on April 27, 1998, yielded little information, but did raise many concerns over the direction of EPA public relations. It was astonishing to hear an EPA RPM assert that the public held unrealistic expectations that the ROD would be used as a direct guide for the cleanup. THE LAW REQUIRES THAT THE ROD IS THE GUIDANCE DOCUMENT TO DIRECT THE CLEANUP OF THE SITE, OR THE ROD MUST BE AMENDED FOR FUNDAMENTAL CHANGES. Equally disturbing was the assertion that testing for toxaphene as described in the ROD is a frivolous activity providing no useful information for cleanup purposes.<sup>14</sup> In addition, questions from the public and Coalition about changes in the ROD contained in the EPA Fact Sheet<sup>15</sup> were ignored and unanswered. Particularly, the Coalition wanted to know what the new Performance Standards were and how they would be confirmed. The EPA did not state the Performance Standard of 76 PPM for subsurface soils had been abandoned at this public meeting.

The Coalition continued efforts to obtain information for public dissemination through the TAG at a meeting with the EPA at Congressman Kingston's office on June 16, 1998. The meeting began with assertions by the EPA that cleanup criteria set forth in the ROD were merely of historic interest and had little bearing on the actual remediation efforts at the Site; and 76 PPM toxaphene Performance Standard for subsurface soil was no longer the appropriate criteria for guiding the cleanup. All four EPA representatives stated that they are not bound to ROD criteria, or the assurances given the community during the legally mandated public comment period.<sup>16</sup> Then, the EPA representatives refused to answer any questions, other than to say the decision to change the cleanup at the site was made in consultation with Dr. Elmer Akins and Mr. Levon Revells of the EPA. Ms. Allen, EPA Office of Congressional Affairs, stated they considered Daniel Parshley's letters to be only comments and that the EPA did not have to respond to comments.<sup>17</sup> It is not understood why the EPA

---

<sup>13</sup> Letter from Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition, Inc.; to Congressman Jack Kingston. April 5, 1998.

<sup>14</sup> Comments on the April 27, 1998, EPA and Hercules, Inc. Public Presentation. By Dr. R. Kevin Pegg, TAG Technical Advisor.

<sup>15</sup> EPA Superfund Fact Sheet, Hercules 009 Landfill Site, April 1998.

<sup>16</sup> Comments on June 16, 1998, Meeting at Congressman Jack Kingston's Office, Brunswick, Georgia. By Dr. R. Kevin Pegg, TAG Technical Advisor.

<sup>17</sup> Comments on June 16, 1998, Meeting at Congressman Jack Kingston's Office, Brunswick, Georgia. By Daniel Parshley, TAG Project Manager.

RPM would solicit comments and refuse to answer them.<sup>18</sup> The EPA maintained that Daniel Parshley's questions and comments would be answered in a letter from John Hankinson, EPA Region IV Regional Administrator, and would be provided at the end of the meeting. The EPA representatives at the meeting refused to answer questions and Mr. Hankinson's letter said, "EPA has reviewed Mr. Parshley's comments and has responded personally to Mr. Parshley."<sup>19</sup> Therefore, the EPA response was a refusal to answer Mr. Parshley's questions and comments.<sup>20</sup>

The Coalition sought the documents and new information referred to by the EPA representatives at the June 16, 1998, meeting and in Mr. Hankinson's letter that formed the basis for the changes in the ROD at the Site. Dr. Akins, EPA Region IV, was contacted by phone on June 17, 1998, and said he had not been consulted by Ms. Wischkaemper or Ms. Godfrey about the Site.<sup>21</sup> Mr. Revells was contacted by phone on June 17, 1998, and said he had never spoken to Ms. Wischkaemper and had not spoken to Ms. Godfrey, EPA RPM.<sup>22</sup> Under the Freedom of Information Act (FOIA), the Coalition requested the documents and information that formed the basis for changes to the ROD at the Site.<sup>23</sup> In addition, questions were submitted to obtain information needed to explain to the community the changes made at the site through the TAG.<sup>24</sup> The Waste Management Division, EPA Region IV, responded that they had no records responsive to the FOIA request.<sup>25</sup> The Science and Ecosystem Support Division, EPA Region IV, responded that they have no records responsive to the FOIA request.<sup>26</sup> Both FOIA denials were appealed and the appeal denied.<sup>27, 28, 29</sup> The appeal denial

---

<sup>18</sup> Letter from Annie Godfrey, Remedial Project Manager, EPA Region IV; to Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition, Inc. January 28, 1998.

<sup>19</sup> Letter from John Hankinson, Regional Administrator, EPA Region IV; to Congressman Jack Kingston. June 16, 1998.

<sup>20</sup> Comments on June 16, 1998, Meeting at Congressman Jack Kingston's Office, Brunswick, Georgia. By Daniel Parshley, TAG Project Manager.

<sup>21</sup> Personal communication between Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition, Inc.; and Dr. Elmer Akins, EPA Region IV. June 17, 1998.

<sup>22</sup> Personal communication between Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition, Inc.; and Levon Revells, SESD EPA Region IV. June 17, 1998.

<sup>23</sup> Letter from Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition, Inc.; to Congressman Jack Kingston. June 18, 1998.

<sup>24</sup> Letter from Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition, Inc.; to Congressman Jack Kingston. June 18, 1998.

<sup>25</sup> Letter from Richard Green, Director, Waste Management Division, EPA Region IV; to Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition, Inc. August 4, 1998.

<sup>26</sup> Letter from Russell L. Wright, Jr., Director, SESD EPA Region IV. August 17, 1998.

cited legal cases which were irrelevant to the information requested, which the EPA is required to provide under 40 C.F.R. §300.435 when a significant or fundamental change is made to the ROD.

Congressman Kingston's office requested that EPA Region IV respond to the Coalition.<sup>30, 31</sup> In the response to Congressman Kingston's inquires on behalf of the Coalition, the EPA cited the same documents that the Coalition used in researching and documenting non-compliance with the ROD, and represented these documents as responsive to our letters.<sup>32</sup> The second response to Congressman Kingston, EPA Region IV was unresponsive to Congressman Kingston's request, but did further articulate EPA non-compliance with the ROD.<sup>33</sup>

Mr. Tim Fields from EPA Headquarters attended a meeting with community members on September 10, 1998. During this meeting we expressed our concerns over non-compliance the ROD. Mr. Fields requested we send further information to him about our concerns. The Coalition sent a letter outlining our concerns, and a detailed account of non-compliance with the ROD, including documentation.<sup>34, 35</sup> Mr. Field confirmed that the ROD was the guidance document for the Hercules 009 Landfill Superfund Site in response to the letter outlining our concerns.<sup>36</sup> After numerous promises by the EPA of a response to the materials sent, no reply has been received.<sup>37, 38, 39, 40, 41, 42</sup>

---

<sup>27</sup> Letter from Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition, Inc.; to Freedom of Information Officer, U.S. EPA, Washington, D.C. August 14, 1998.

<sup>28</sup> Letter from Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition, Inc.; to Freedom of Information Officer, U.S. EPA, Washington, D.C. August 25, 1998.

<sup>29</sup> Letter from James A. Shrybman, Finance and Operations Division, U.S. EPA, Washington, D.C.; to Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition, Inc. September 1, 1998.

<sup>30</sup> Letter from Congressman Kingston, to Marilyn S. Allen, Congressional Affairs, EPA Region IV. July 8, 1998

<sup>31</sup> Letter from Congressman Kingston, to Marilyn S. Allen, Congressional Affairs, EPA Region IV. August 4, 1998

<sup>32</sup> Letter from John H. Hankinson, Regional Director, EPA Region IV; to Congressman Kingston. August 28, 1998

<sup>33</sup> Letter from John H. Hankinson, Regional Director, EPA Region IV; to Congressman Kingston. August 28, 1998.

<sup>34</sup> Letter from Daniel Parshley, Glynn Environmental Coalition; to Tim Fields, U. S. Environmental Protection Agency. September 15, 1998.

<sup>35</sup> Request for Amendment of the Record of Decision for the Hercules 009 Landfill Superfund Site, and an Ombudsman for Community Relations, document from Glynn Environmental Coalition, to Tim Fields, U.S. EPA Headquarters. September 29, 1998.

<sup>36</sup> Letter from Tim Fields, U. S. Environmental Protection Agency; to Daniel Parshley, Glynn Environmental Coalition. October 30, 1998.

<sup>37</sup> Request for reply on intent of EPA Headquarters on the Coalition's September 29, 1998, request for amendment

## Conclusions

The Coalition has made a concerted effort to obtain information and documents that form the EPA decision to change the ROD for the Site in order to provide dissemination of information under the TAG to our community. To date, the EPA has actively engaged in efforts to subvert efforts to obtain information and documents. Representations of the EPA are calculated to subvert the legal rights of the community to comment on fundamental changes to the ROD under 40 C.F.R. §300.435(c)(2)(ii). Tactics of the EPA include deception, disinformation, refusal to reply, and less than truthful responses. Questions, comments, and concerns submitted in writing, meetings, and personal communications dating back to April 1997 by the Coalition, community, and TAG technical advisor remain unanswered. The Coalition has documented fundamental changes in the remedy selected in the Record of Decision for the Site that should be addressed by an amendment of the Record of Decision under 40 C.F.R. §300.435(c)(2)(ii).

---

of the Hercules 009 ROD and ombudsman; E-mail from Daniel Parshley, Glynn Environmental Coalition; to Tim Fields, U. S. Environmental Protection Agency. October 21, 1998 - Request for reply on intent of EPA Headquarters on the Coalition's September 29, 1998, request for amendment of the Hercules 009 ROD and ombudsman; E-mail from Daniel Parshley, Glynn Environmental Coalition; to Tim Fields, U. S. Environmental Protection Agency. October 21, 1998.

<sup>38</sup> Reply to 10-21-98 Coalition E-mail, reply should be signed by Mr. Fields tomorrow; E-mail from Patricia Tidwell, U. S. Environmental Protection Agency to Daniel Parshley, Glynn Environmental Coalition. October 22, 1998.

<sup>39</sup> U. S. Environmental Protection Agency response the Coalition's September 29, 1998, request for amendment of the Hercules 009 ROD and ombudsman to be answered by November 30, 1998; Letter from John Cunningham, U. S. Environmental Protection Agency; to Daniel Parshley, Glynn Environmental Coalition. October 22, 1998.

<sup>40</sup> E-mail from Joan Fisk, U. S. Environmental Protection Agency; to Daniel Parshley, Glynn Environmental Coalition. December 2, 1998.

<sup>41</sup> E-mail from Joan Fisk, U. S. Environmental Protection Agency; to Daniel Parshley, Glynn Environmental Coalition. December 16, 1998.

<sup>42</sup> E-mail from Tim Fields, U. S. Environmental Protection Agency; to Daniel Parshley, Glynn Environmental Coalition. January 22, 1999.

## **Attachment A**

**Glynn Environmental Coalition request that the Environmental Protection Agency, Washington, D.C., direct the Regional Administrator of EPA Region IV to handled fundamental changes to the Record of Decision for the Hercules 009 Landfill Superfund Site as an Amendment of the Record of Decision, pursuant to 40 C.F.R. §300.435(c)(2)(ii); or implement the Record of Decision pursuant to 40 C.F.R. §300.435(b)(1)**

**Purpose: Glynn Environmental Coalition request that the Environmental Protection Agency, Washington, D.C., direct the Regional Administrator of EPA Region IV to handle fundamental changes to the Record of Decision for the Hercules 009 Landfill Superfund Site as an Amendment of the Record of Decision, pursuant to 40 C.F.R. §300.435(c)(2)(ii); or implement the Record of Decision pursuant to 40 C.F.R. §300.435(b)(1).**

The U.S. Environmental Protection Agency (EPA) recognizes new information may warrant rethinking a remedy previously selected for a site. The EPA is legally bound to follow procedures, described in § 300.435(c), for amending the Record of Decision (ROD) in such a case.<sup>1</sup> The EPA has said in writing that new information is the basis for changes made to the Hercules 009 Landfill Site (Site) ROD.<sup>2</sup> Changes made to the remedy selected in the ROD do not simply modify the remedy to enhance its protectiveness, effectiveness, but are a fundamental reconsideration of the basic remedy selection decision on which public comment was taken.<sup>3</sup> The public comment on the original proposed plan required under section 117(a) has been rendered meaningless by changes which are fundamentally different from the remedies selected in the proposed plan. EPA does not believe that Congress intended that the critical public involvement opportunities provided in section 117 could be made irrelevant in such a manner. Moreover, because ROD amendments are as important a part of the remedial decision-making process as the selection of the original remedy, EPA believes that public comment opportunities on changes to the ROD are to be treated with equal importance.<sup>4</sup> When the EPA plans to make a fundamental alteration in a selected remedy, EPA is required to modify the ROD, and to follow a public comment process similar to the development of the original ROD.<sup>5</sup>

The Coalition has been providing technical assistance through an EPA Technical Assistance Grant since September 1992, for the Hercules 009 Landfill Superfund Site. Fundamental changes to the ROD were noted during the development of the Remedial Design (RD). Comments, questions, and concerns about the fundamental changes to the ROD were submitted to the EPA Remedial Project

---

<sup>1</sup> 55 Fed. Reg. 8774 (1990)

<sup>2</sup> Letter from John Hankinson, Jr., Regional Administrator EPA Region IV, June 16, 1998.

<sup>3</sup> 55 Fed. Reg. 8774 (1990)

<sup>4</sup> 55 Fed. Reg. 8772 (1990)

<sup>5</sup> 55 Fed. Reg. 8772 (1990)



Manager (RPM) from our community's technical advisor <sup>6, 7, 8, 9</sup> Coalition members, and the community. <sup>10, 11, 12, 13, 14, 15, 16, 17, 18, 19</sup> In addition, technical implementability problems noted in the Pre-ROD Remedial Investigation/Feasibility Study (RI/FS) and public meeting, addressed in the original ROD, have re-emerged and remain unresolved by the current RD and Remedial Action (RA).

### **Fundamental changes to the ROD**

<b>CRITERIA</b>	<b>ORIGINAL ROD</b>	<b>FUNDAMENTAL CHANGE</b>
<b>Performance Standard</b>	76 Part Per Million (PPM) for subsurface soils.	Regional groundwater table or when Hercules and the EPA decide to stop.

<sup>6</sup> Hercules Landfill Superfund Site, Technical Assistance Report, Vol.6, Num. 2. 009 Preliminary Design Report Indicates Only Sludge Treatment. April 1998.

<sup>7</sup> Hercules Landfill Superfund Site, Technical Assistance Report, Vol. 6, Num. 3. 009 Prefinal Remedial Design Results in an Unpredictable Cleanup. June 1997.

<sup>8</sup> Hercules Landfill Superfund Site, Technical Assistance Report, 009 Final Remedial Design Plan Comments, Vol. 7, Num. 1. March 1998.

<sup>9</sup> Hercules Landfill Superfund Site, Technical Assistance Report, 009 Remedial Design: Questions and Responses, Vol. 7, Num. 2. April 1998.

<sup>10</sup> EPA Information Open House, March 24, 1998.

<sup>11</sup> EPA Information Open House, April 27, 1998.

<sup>12</sup> Letter from Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition, Inc., to Alan Yarbrough, RPM, EPA Region IV. May 2, 1997.

<sup>13</sup> Letter from Daniel Parshley, to Congressman Jack Kingston, Compliance with the Record of Decision at the Hercules 009 Landfill Superfund Site in Brunswick, Glynn County, Georgia. April 5, 1998.

<sup>14</sup> Personal Communication. Phone conversation between Daniel Parshley, TAG Project Manager; and, Curt Fehn, Chief, South Superfund Management Branch, EPA Region IV. April 30, 1998.

<sup>15</sup> Letter from Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition, Inc., to Congressman Jack Kingston. Compliance with the Record of Decision at the Hercules 009 Landfill Superfund Site in Brunswick, Glynn County, Georgia. May 22, 1998.

<sup>16</sup> Letter from Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition, Inc., to Congressman Jack Kingston, Addendum to May 22, 1998, Compliance with the Record of Decision at the Hercules 009 Landfill Superfund Site in Brunswick, Glynn County, Georgia. May 26, 1998.

<sup>17</sup> Meeting with EPA at Congressman Jack Kingston's Office, Brunswick, Georgia. June 16, 1998.

<sup>18</sup> Letter from Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition, Inc., to Congressman Jack Kingston, Questions concerning the changes in the Record of Decision at the Hercules 009 Landfill Superfund Site, Brunswick, Glynn County, Georgia. June 18, 1998.

<sup>19</sup> Letter from Daniel Parshley, TAG Project Manager, Glynn Environmental Coalition, Inc., to Congressman Jack Kingston, Request for information on the Hercules 009 Landfill Superfund Site, Brunswick, Glynn County, Georgia, under the Freedom of Information Act.

<b>Treatment Volume</b>	All subsurface sludge and soil above 76 PPM toxaphene.	Sludge and soil above the regional groundwater table.
<b>Treatment Method</b>	In-Situ (in place) stabilization.	Excavation and Ex-Situ stabilization.
<b>Conformation Sampling</b>	Bore through the treated soils and sample sub-treated areas.	Only if regional groundwater table is not reached.
<b>Landfill Cap</b>	Treated sludge and soil covered by one foot of clay and two feet of native soil.	Treated sludge and soil covered by one foot of native soil, no clay.

## Discussion

### A. Performance Standards

The Performance Standard of 76 PPM toxaphene for subsurface soils was established to address the source areas, surface water, and groundwater at the Site.<sup>20</sup>, <sup>21</sup> It was anticipated that contaminants at the Site which do not have cleanup levels presented in the ROD would be reduced to acceptable levels when cleanup levels were met for the most toxic and most mobile contaminants for which cleanup levels have been established.<sup>22</sup> The EPA assured the community that the cleanup goal of 76 PPM toxaphene for subsurface soils would be met by either stabilization or chemical extraction.<sup>23</sup> The treatment method, In-situ Stabilization, was selected because it would reduce the incremental risk associated with current Site conditions by permanently treating all affected solids having constituent

<sup>20</sup> Record of Decision, Hercules 009 Landfill Site, Description of Selected Remedy.

<sup>21</sup> Record of Decision, Hercules 009 Landfill Site, Performance Standards for Soils, Page 55, Section 9.0 A.3.a

<sup>22</sup> Record of Decision, Hercules 009 Landfill Site, Cleanup Goals, Page 18, Section 6.6.

<sup>23</sup> Record of Decision, Hercules 009 Landfill Site, Responsiveness Summary, Page 65, Number 7.

concentrations exceeding remedial action levels.<sup>24</sup>

The EPA has made a fundamental change in the scope and performance of the subsurface soil Performance Standard of 76 PPM toxaphene by changing the Performance Standard to the water table; and has fundamentally changed the cost of treatment by reducing volume to be treated. Furthermore, the Performance Standard change is fundamental because the change does not enhance its protectiveness, or effectiveness.<sup>25</sup>

EPA Region IV contends that when the regional groundwater table is reached, they have met the intent of the ROD; the ROD did not contemplate extensive groundwater de-watering which would be necessary to treat below the regional groundwater table.<sup>26, 27, 28</sup> Contrary to contentions of the EPA, de-watering was contemplated and discussed in the Feasibility Study.<sup>29</sup> The Remedial Investigation clearly shows the sludge extended into the observed groundwater table.<sup>30</sup> The authors of the ROD understood the sludge extended into the groundwater table,<sup>31</sup> and the Site was deeper than historical records indicate.<sup>32</sup> It is accurate to say the ROD did contemplate treatment below the water table but left the engineering specifications to be worked-out in the Treatability Study using the Performance Standard of all subsurface soils exceeding the Performance Standard of 76 PPM toxaphene. The EPA has concluded previously that In-Situ Stabilization is an effective remedial technology and would achieve the performance criteria specified in the ROD for this Site.<sup>33</sup>

## **B. Treatment Volume**

The change in the subsurface soil Performance Standard has fundamentally changed the treatment volume. Discarding of source areas to be treated as determined by the methodology specified

---

<sup>24</sup> Feasibility Study, Hercules 009 Landfill Site. Page 6-24, Section 6.5.5.

<sup>25</sup> 55 Fed. Reg. 8774 (1990)

<sup>26</sup> Letter from Curt Fehn, Chief, South Superfund Management Branch, to Daniel Parshley, Glynn Environmental Coalition, Inc. May 14, 1998.

<sup>27</sup> EPA Superfund Fact Sheet, Hercules 009 Landfill Site, April 1998.

<sup>28</sup> EPA Superfund Fact Sheet, Hercules 009 Landfill Site, August 1998.

<sup>29</sup> Feasibility Study, Hercules 009 Landfill Site, Page 8-7, Section 8.2.2.

<sup>30</sup> Remedial Investigation, Hercules 009 Landfill Site. Plate 3.

<sup>31</sup> Record of Decision, Hercules 009 Landfill Site, Page 7, Figure 5-1.

<sup>32</sup> Remedial Investigation, Hercules 009 Landfill Site, Appendix C, Page 6, Section 4.0.

<sup>33</sup> Letter from Alan Yarbrough, Remedial Project Manager, South Superfund Remedial Branch; to Timothy Hassett, Senior Environmental Engineer, Hercules Incorporated. April 16, 1996.

in the ROD fundamentally changes the volume to be treated and is a fundamental change in scope, performance, and cost. An amendment of the ROD is required because the changes do not enhance protectiveness or effectiveness.<sup>34</sup>

Subsurface soil target concentrations were used to establish treatment boundaries for subsurface soil and wastes for cost estimating purposes and a sampling program was conducted to determine the actual volumes of surface soil and subsurface soil requiring remedial action.<sup>35</sup> Please note that the ROD specifies a sampling program to determine the actual volumes of the source areas to be treated, and not the groundwater table. If the groundwater table was to be used, all the necessary data to determine source area volume would have been present at the time the ROD was written. The use of soil driven standards was further clarified in the ROD; "Sludge and soil containing toxaphene exceeding remedial action target concentrations will be treated in-situ in conjunction with stabilization of consolidated surface soil". By their own admission, the EPA does not expect in-situ to meet the Performance Standard or use the methodology specified in the ROD to determine the treatment boundaries of the source area.<sup>36</sup> The ROD is clear, the subsurface soil target concentrations was to be used to establish vertical and horizontal treatment boundaries for subsurface soils and waste, and a sampling program will be conducted to determine the actual volumes of surface soil and subsurface soil requiring remedial action.<sup>37</sup> A sampling program, not the water table, was to be used to determine the boundaries of the source areas designated for treatment. Required sampling was conducted to determine the vertical and horizontal boundaries of the source area to be treated during the Treatability Study.<sup>38</sup> Discarding the delineated source areas identified for treatment in the Treatability Study, a decision document for the Site, is a fundamental change to the scope, performance, and cost of the selected remedy in the ROD.<sup>39</sup>

### C. Treatment Method

---

<sup>34</sup> 55 Fed. Reg. 8774 (1990)

<sup>35</sup> Record of Decision, Hercules 009 Landfill Site, Page 27, Section 7.4.

<sup>36</sup> EPA Superfund Fact Sheet, Hercules 009 Landfill Site, Page 2, Number 2. April 1998.

<sup>37</sup> Record of Decision, Hercules 009 Landfill Site, Page 53, Section 9.0 A.2.

<sup>38</sup> Treatability Study, Hercules 009 Landfill Site, Page 2-4, Section 2.3.4.

<sup>39</sup> 40 CFR§300.435(b)

A fundamental change has been made to the ROD specified treatment method of In-Situ Stabilization, to Ex-Situ Stabilization of only source areas above the water table to form a cap over the site.<sup>40</sup>, <sup>41</sup> The fundamental change in the treatment method made by the EPA also changed the performance and scope of treatment because of the limitations identified with Ex-Situ treatments.<sup>42</sup> In addition, cost of treatment is changed by a change in the volume determined during the Treatability Study using the ROD guidelines. Therefore, an amendment to the ROD is required because the changes do not enhance protectiveness or effectiveness, reduce scope, performance, cost, and are a fundamental reconsideration of the basic remedy selection decision on which comment was taken.<sup>43</sup>

The EPA incorrectly calls the current treatment method In-Situ while describing Ex-Situ. A very basic difference exists between the two treatment methods. In-Situ<sup>44</sup> is in the original place and Ex-Situ is accomplished by excavation<sup>45</sup>. All descriptions of the current Remedial Action by the EPA describe Ex-Situ Stabilization with extensive excavation.<sup>46</sup>, <sup>47</sup>, <sup>48</sup>, <sup>49</sup> Inherent problems identified with Ex-Situ at this Site in the RI/FS have re-emerged.<sup>50</sup>

Contrary to the contention of the EPA, all toxaphene sludge will not be treated because the sludge extends below the regional groundwater, and treatment is planned to be stopped before, or when, the groundwater is reached. Water table elevations at the site range from 14 to 17 feet MSL (Mean Sea Level)<sup>51</sup> and the sludge extends down below 10 feet MSL.<sup>52</sup> Furthermore, the depth of

---

<sup>40</sup> Letter from Curt Fehn, Chief, South Superfund Management Branch, to Daniel Parshley, Glynn Environmental Coalition, Inc. May 14, 1998.

<sup>41</sup> EPA Superfund Fact Sheet, Hercules 009 Landfill Site, April 1998.

<sup>42</sup> Feasibility Study, Hercules 009 Landfill Site, Page 8-7, Section 8.2.2.

<sup>43</sup> 55 Fed. Reg. 8774 (1990)

<sup>44</sup> In-Situ. "In the original place", The American Heritage Dictionary, Second College Edition. Mifflin Company, Boston, 1982.

<sup>45</sup> Excavate. "1. To make a cavity or hole in; hollow out. 2. To form by hollowing out. 3. To remove by digging or scooping out. 4. To expose or uncover by or as if by digging. To engage in digging." The American Heritage Dictionary, Second College Edition. Houghton Mifflin Company, Boston, 1982.

<sup>46</sup> Letter from Annie Godfrey, Remedial Project Manager, EPA Region IV; to Daniel Parshley, Glynn Environmental Coalition, Inc. March 5, 1998.

<sup>47</sup> EPA Superfund Fact Sheet, Hercules 009 Landfill Site, April 1998.

<sup>48</sup> Letter from Curt Fehn, Chief, South Superfund Management Branch, to Daniel Parshley, Glynn Environmental Coalition, Inc. May 14, 1998.

<sup>49</sup> EPA Superfund Fact Sheet, Hercules 009 Landfill Site, August 1998.

<sup>50</sup> Feasibility Study, Hercules 009 Landfill Site, Page 8-7, Section 8.2.2.

<sup>51</sup> Remedial Investigation, Hercules 009 Landfill Site, Page 6-1, Section 6.1.

<sup>52</sup> Treatability Study, Hercules 009 Landfill Site, Appendix E, Plates E-1, E-2, and E-3.

treatment will vary with rain event. Therefore, the water table Performance Standard and cap thickness will fluctuate with rain events, which alters scope, performance, and cost.

The cement-soil "cap" described by the EPA will not be nearly 15 feet in thickness as contended.<sup>53</sup> Site elevations range from 13 to 26 feet, and water table from 14 to 17 feet. Taking the highest elevation and the lowest water table would give a maximum thickness of 12 feet.<sup>54</sup> In reality, the areas treated to form the cap will be much less. The cap will not prevent transport of contamination into the groundwater because source areas exist in soils above Performance Standards over 12 feet below the water table. In addition, horizontal groundwater flow will continue to allow migration of contamination from source areas throughout the subsurface soils.<sup>55</sup> A "Cap" is a fundamental change to the remedy selected in the ROD that does not enhance performance or effectiveness, and changes the scope, performance and cost.

#### **D. Confirmation Sampling**

Confirmation sampling to confirm compliance with the ROD is planned only if Ex-Situ does not reach the water table.<sup>56</sup> Elimination of confirmation sampling specified in the ROD is a fundamental change in the scope, performance, and remedy selection decision process in which public comments were taken. The change does not enhance protectiveness or effectiveness and can not be handled by an Explanation of Significant Differences.<sup>57</sup>

The EPA is magnifying the uncertainties already associated with In-Situ. Uncertainties associated with In-Situ stabilization are the variability of the treatment throughout the treatment zone and the incapability of the contractor thereafter to monitor treatment results. These concerns will be addressed by requiring sufficient overlap between treatment areas and by post-treatment sampling of the treated zone and underlying soil.<sup>58</sup> The present plan is devoid of post-treatment sampling required under the ROD and further expands the uncertainties associated with the selected treatment.

---

<sup>53</sup> Letter from Curt Fehn, Chief, South Superfund Management Branch, to Daniel Parshley, Glynn Environmental Coalition, Inc. May 14, 1998.

<sup>54</sup> Remedial Investigation, Hercules 009 Landfill Site, page 6-1, Section 6.1.

<sup>55</sup> Treatability Study, Hercules 009 Landfill Site, Appendix E, Plates E-1, E-2, and E-3.

<sup>56</sup> EPA Superfund Fact Sheet, Hercules 009 Landfill Site, April 1998.

<sup>57</sup> 55 Fed. Reg. 8774 (1990)

Changes in treatment volume and treatment method assure the underlying soil for a depth of up to 12 feet will not meet the Performance Standards. If the excavation does not proceed to the regional groundwater table, confirmation samples for soil will be taken to determine the level of toxaphene remaining in the soil.<sup>59</sup> <sup>60</sup> Levels up to 2600 PPM will remain in the soils below the groundwater level.<sup>61</sup> Fundamental changes to confirmation sampling do not enhance protectiveness or effectiveness and fundamentally change the scope and cost.

#### **E. Landfill Cap**

Elimination of the clay component of the cap is a fundamental change that does not enhance protectiveness or effectiveness and can not be handled by an Explanation of Significant Differences because it is a fundamental change in the scope, performance and cost of the remedy selected in the ROD.<sup>62</sup>, <sup>63</sup> Furthermore, the proposed treatment of consolidated contaminated soils with 3% Portland cement is a fundamental change from formulations approved in the Treatability Study (TS). No Treatability Study has been performed on the 3% Portland cement formulation. The proposed treatment is in non-compliance with the Treatability Study, a Decision Document for the Site. Therefore, the treatment is a fundamental change in the remedy and treatment methodology specified in the ROD. The cap treatment does not enhance performance or effectiveness and changes the scope, performance, and cost of the selected remedy.

---

<sup>58</sup> Record of Decision, Hercules 009 Landfill Site, Page 47, Section 8.6.

<sup>59</sup> EPA Superfund Fact Sheet, Hercules 009 Landfill Site, April 1998.

<sup>60</sup> Letter from Annie Godfrey, Remedial Project Manager EPA Region IV; to Daniel Parshley, Glynn Environmental Coalition.

<sup>61</sup> Treatability Study, Hercules 009 Landfill Site, Appendix E.

<sup>62</sup> 55 Fed. Reg. 8774 (1990)

<sup>63</sup> 40 C.F.R. § 300.435(b)

## **Conclusions**

Fundamental changes have been made to the ROD for the Hercules 009 Landfill Superfund Site and are fundamental reconsiderations of the remedy selection decision on which public comment was taken. An amendment to the Record of Decision is needed for the following:

- Performance Standards
- Treatment Volume
- Treatment Method
- Confirmation Sampling
- Landfill Cap





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 10 1999

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

The Honorable Jack Kingston  
House of Representatives  
Washington, DC 20515

Dear Congressman Kingston:

Thank you for your letter of April 21, 1999, regarding the concerns of Mr. Daniel Parshley of the Glynn Environmental Coalition, Inc., about fundamental changes to the Record of Decision (ROD) for the Hercules 009 Landfill Superfund Site in Brunswick, Georgia. Mr. Parshley has previously communicated similar concerns to the U.S. Environmental Protection Agency (EPA), asking that EPA Region 4 be directed by EPA Headquarters to handle the fundamental changes to the ROD for the Hercules 009 site differently.

The changes to the remedial approach were included in an Explanation of Significant Difference (ESD), which was issued in August 1998 (copy enclosed). The State of Georgia concurred in the ESD. The ESD process followed by Region 4 complies with the Superfund law and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). [See 40 CFR Part 300.435(c)(2)(i).] In reviewing the ESD, it is apparent that the Region determined the needed changes did not "fundamentally alter the basic features of the selected remedy with respect to scope, performance, or cost...". If there had been fundamental changes, then the Region would have proposed a ROD amendment and requested public comment in accordance with 40 CFR Part 300.435(c)(2)(ii). Since the actions taken by the Region comply with the NCP, and the Region is delegated the authority to make such final decisions, EPA Headquarters cannot ask the Regional Administrator to reopen the Hercules 009 ROD.

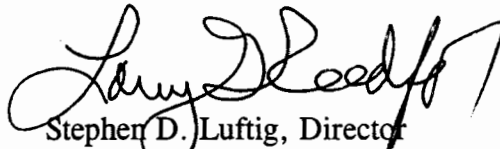
Region 4 provided a copy of their response to Mr. Parshley's 11 questions that accompanied a June 18, 1998, letter to you. The answers to the Coalition's questions, comments, and concerns submitted to EPA since April 1997, are contained in the site's Administrative Record (e.g., the Remedial Investigation Report, the Feasibility Study Report, the Record of Decision, the Remedial Design Report, the Remedial Action Work Plan, and the Explanation of Significant Differences). As you are aware, the Administrative Record is available to the public

at the Brunswick-Glynn County Regional Library, 298 Gloucester Avenue, in Brunswick. The Administrative Record contains sufficient detail to indicate that there is no change to the performance standards.

EPA Region 4's Ombudsman did recommend the use of a non-EPA mediator/facilitator to discuss issues of concern and to find ways to resolve issues in the future. A mediator/facilitator who was satisfactory to both EPA and the coalition was chosen, some meetings held, with the conclusion that the mediatory/facilitator would be of great value in helping to deal with issues on upcoming sites in Brunswick, Georgia.

I assure you that both EPA Headquarters and Region 4 staff are committed to ensuring the integrity of the Superfund process and maintaining the trust and support of communities affected by Superfund sites.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen D. Luftig", written over the printed name.

Stephen D. Luftig, Director  
Office of Emergency and Remedial Response

Enclosure

cc: Mr. Richard Green, Director  
Waste Management Division  
Region 4 (w/o enclosure)



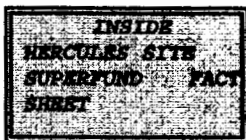
South Site  
Mgmt. Branch

Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia, 30303

---

Official Business  
Penalty for Private Use \$300

Angela Leach  
Community Relations





U.S. ENVIRONMENTAL PROTECTION AGENCY REGION IV  
Superfund Fact Sheet

August 1998

*Hercules 009 Landfill Site*

*Brunswick, Glynn County, Georgia*

Introduction

The U.S. Environmental Protection Agency (EPA) is issuing this Explanation of Significant Difference (ESD) to clarify the cleanup decision document for the Hercules 009 Landfill (Hercules) **Superfund** Site. EPA, in consultation with the Georgia Environmental Protection Division (GAEPD), signed the **Record of Decision (ROD)** selecting the remedy for the Site in March 1993. Although the clarifications provided in this ESD to the **ROD** represent a significant change to the construction of the landfill cover, they do not fundamentally change the remedy. The remedy remains fully protective of human health and the environment.

EPA is issuing this ESD in accordance with Section 117(c) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, and Section 300.435(c)(2)(i) of the National Contingency Plan (NCP). CERCLA is the **Superfund** law, and the NCP contains the regulations setting forth how EPA will carry out its responsibilities under the law. Terms in **bold italics** are defined in a glossary on page 3.

This ESD will become part of the

**Administrative Record** for the cleanup decision for the Hercules Site. The record is available for review at the **Information Repository** located at:

Brunswick-Glynn Regional Library  
208 Gloucester Avenue  
Brunswick, Georgia.

Background

The Hercules 009 Landfill Site consists of land originally used as a borrow pit during the construction of Highway Spur 25. Hercules was issued a permit in 1975 to use the property as a waste landfill for wastewater sludge generated during the manufacturing process for toxaphene. The permit was cancelled after discovering toxaphene in the drainage ditch adjacent to the site. The landfill was closed in 1983 in accordance with existing GA EPD regulations.

Hercules, Incorporated, as a Potentially Responsible Party (**PRP**) at the Site completed a **Remedial Investigation (RI) and Feasibility Study (FS)** in 1992 under EPA oversight pursuant to an Administrative Order on Consent (AOC). The RI was designed to gather enough information regarding the nature and extent of contamination in order for EPA to

make a remedy selection. The RI found toxaphene contamination in soils, sludges, and groundwater. The FS analyzed alternative remedies for ensuring protection of human health and the environment at the Site.

EPA selected the cleanup remedy described below for the site with a Record of Decision dated March 1993. The Agency then entered into a Consent Decree with Hercules to design and implement the remedy for the site.

#### Selected Remedy

The major components of the selected remedy for the Site include:

- Conducting a treatability study to evaluate in-situ stabilization of site soils and sludges,
- Implementation of in-situ stabilization of subsurface soils and sludges and consolidated surface soils,
- Construction of a cover over the treated soils to minimize rainwater infiltration and direct contact with the treated soil,
- Long-term monitoring of groundwater, as well as surface water and sediment in the on-site pond and adjacent drainage ditch,
- Implementation of a groundwater pump and treat system, if EPA believes that groundwater contaminants will not naturally attenuate below performance standards over time,
- Operation and maintenance of the cover for a minimum of thirty years, and

- Institutional controls to restrict land use and groundwater use.

#### Explanation of Significant Differences

The scope of this ESD involves a change in the cover for the treated soil in the landfill and in the treatment of the soils excavated from outside the landfill. This ESD also describes technical concerns and additional groundwater information, which arose or became available during the remedial design.

The ROD specified that surface soils from outside the landfill cells would be placed in the landfill for treatment. A multi-media or clay cover was to be constructed over the treated soils. The change described in this ESD is to treat the surface soils from outside the landfill in an on-site treatment unit and use the treated soil as the landfill cover. These surface soils originated in the site areas adjacent to the landfill and contain greater than 0.25 ppm toxaphene. The soils are currently stockpiled in the southern portion of the Hercules property.

The landfill cover will use soils from the stockpile which contain toxaphene at a concentration consistent with the treatment standards for hazardous wastes contained in Subpart D of RCRA Land Disposal Restrictions at 40 CFR Part 268. Previous testing results indicate that all stockpiled soil meets these standards. The soil will be screened to remove material greater than 3 inches, such as stumps and roots. Rejected material will be disposed of on-site or buried within the soil-cement material. The screened soil will be

blended with dry Portland cement and water in an on-site pug mill. A mixture of at least 3% Portland cement and 97% soil by weight will be used for the cover. The blended material will be placed and graded to form a cover over the entire landfill. The cover will be between one and three feet in thickness. The cover will be tested for compliance with construction standards. An additional multi-media or clay cover will not be constructed.

Technical and safety concerns have arisen during the Remedial Design phase of the project. Specifically, concerns exist for slope instability (which could cause equipment or personnel to fall into the treatment area), hydrostatic inflow (the "blow-in" of groundwater caused by different groundwater levels between the landfill and the regional groundwater), and admixture dilution (the mixing of excess groundwater with the soil/cement mixture). These situations could cause unsafe working conditions or unfavorable construction conditions, which could make the remedy less effective.

Groundwater monitoring data collected in 1994 and 1998 have shown that toxaphene has not migrated into the groundwater beneath the site. Treatment of subsurface soils and sludges above the regional groundwater table will add an additional level of safety to ensure that toxaphene will not migrate into the groundwater. The need for groundwater monitoring to determine whether the remedial action is effective is not modified by this ESD. Given current knowledge of site circumstances, EPA does not expect the groundwater pump and treat contingency to be needed at the site.

As a consequence of the groundwater data and the technical and safety concerns, EPA has determined that

contaminated sludge and soil will be treated until the performance standard is met or the regional groundwater table is reached, whichever comes first. Treatment in this manner will reduce the possibility of "blow-in" and of side sloping. Dilution will be controlled by limited groundwater pumping, as necessary. This action is consistent with the groundwater modeling used to determine the subsurface soil performance standard of 76 ppm. The groundwater model and its results apply to the soil located above the regional groundwater table, i.e., the unsaturated soil. If treatment does not proceed to the regional groundwater table, confirmatory samples will be taken to establish the concentration of toxaphene remaining in the soil at that level.

Data gathered by measuring groundwater levels tend to indicate that complete solidification of toxaphene sludge can be achieved notwithstanding the technical concerns expressed in this ESD. Toxaphene remaining in the soil will not pose an unacceptable risk to human health and the environment.

#### Statutory Determination

The selected remedy for the Hercules **Superfund** Site remains fully protective of human health and the environment, in compliance with Federal and State standards applicable or relevant and appropriate to the cleanup, and cost-effective.

# Glossary

**Administrative Record:**

Documentation of basis for EPA selection of a **Superfund** cleanup remedy, placed with **Information Repository**.

**Information Repository:** Documents located near a **Superfund** site for public review.

**PRP:** Potentially Responsible Party - a company or individual who owned or operated or trans-ported or disposed waste at a **Superfund** site.

**Record of Decision (ROD):** Document stating EPA's rationale for cleanup remedy selection at a **Superfund** site.

**Remedial Investigation (RI)/**

**Feasibility Study (FS): Superfund** long-term cleanup study to collect necessary data to determine the type and extent of contamination at NPL sites and to evaluate possible risk reduction measures.

**Superfund:** Common name for the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) established to address uncontrolled or abandoned hazardous waste sites.



## *EPA Contacts*

*Annie Godfrey, Project Manager*

*or*

*Angela Leach, Community Relations  
South Site Management Branch/EPA - Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303  
1-800-435-9234*

*MAILING LIST ADDITIONS/CORRECTIONS*

*If you would like your name and address placed on the mailing list for the Hercules 009 Landfill Site, please complete this form and return to Angela Leach, EPA, 61 Forsyth Street, SW, Atlanta, GA 30303.*

*NAME:* \_\_\_\_\_

*ADDRESS:* \_\_\_\_\_

\_\_\_\_\_

*TELEPHONE:* \_\_\_\_\_

*AFFILIATION (if any):* \_\_\_\_\_